SENATE—*Friday, May 1, 1987*

(Legislative day of Tuesday, April 21, 1987)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

** * * the Lord King forever. The Lord will give strength unto His people; the Lord will bless His people with peace.*—Psalms 29:10-11.

Father in Heaven, this has been a difficult week as the Senate has sought agreement. Aggravating and time consuming as is the democratic process we would not exchange it for any other. Grant, dear God, that this weekend will be one of respite and renewal. Thank You for our families—for faithful spouses and the blessing of children. Despite their usual "pressure-cooker" schedules, help the Senators to make time for their loved ones this weekend, remembering the families need for them and theirs for the family. Bless the families of all who work on the Hill. Where there is alienation, help them seek and find reconciliation. Where there is financial need, remind them that You who care for the lilies of the field and the fowls of the air care also for Your children. Where there is illness, bring healing—discouragement or despair, hope. May this be an especially restful weekend for our families. In His name who promised rest and renewal for the weary. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STENNIS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 1, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

PRIME MINISTER NAKASONE'S VISIT TO THE UNITED STATES

Mr. BYRD. Mr. President, the distinguished Republican leader and I met with the Prime Minister of Japan, Mr. Yasuhira Nakasone, yesterday afternoon for over an hour, and a number of our colleagues held a second lengthy meeting with him and his high-level delegation. Prime Minister Nakasone was, as he always is, courteous, articulate, frank, and in all ways impressive. He is a distinguished world statesman and a credit to the great people of Japan, our ally and our friend.

We talked directly and honestly about the tension and problems surrounding our relationship. The Prime Minister was frank to admit that taking his trip to our country at this time, and during a day when the other body was passing legislation which was not gauged for public popularity in Japan, was a gamble. But, Mr. President, no achievement in the affairs of men is going to be accomplished without risk—and with danger comes, as always, opportunity for those who would reach for it.

The Republican leader and I had, prior to Mr. Nakasone's visit, written a detailed letter, together with the chairman of the Finance Committee, Mr. BENTSEN, and a key trade legislator from the other side of the aisle, Mr. DANFORTH, outlining our concerns over the alarming size of the growing trade imbalance with Japan and our belief that the Japanese market must be opened much wider to competitive American products and services. We reiterated our concerns yesterday with the Prime Minister. We had read our letter carefully as he had read our letter carefully and attempted to address our concerns as we did also in a detailed way.

We indicated that the thing that really matters now in our trading relationship with Japan is results—the bottom line. The deficit with Japan, over $60 billion in 1986, must be reduced steadily over the next few years. It must come down partly as a result of the opening of the Japanese market to our goods. Mr. Nakasone understands the need for this—he has been out front in trying to transform the Japanese economy from its export orientation to an import orientation, based on strong consumer demand. This is a tough job. It will take steadfastness, persistence, and years of effort. But it is a job which is essential for the health of the international trading system and for the growth of the world economy.

Mr. Nakasone listened carefully, attentively, and was, as I have said, courteous and frank. We pointed out the massive trade deficit, and how it has grown from some $12 billion in 1980 to over $60 billion in 1986. We said very plainly that we have to be honest and admit that some of this is not the fault of Japan—we have lost some of our competitive edge and we have to also get our budget deficit under control. We told him that the Senate was working hard on the deficit question.

We also indicated, however, that if the United States only spent 1 percent of its GNP on national defense, there would not be any Federal budget deficit in this country. Moreover, we would have $200 billion to invest productively elsewhere.

On the other hand, this country is spending 7 percent of GNP, not only to protect its own interests in the Pacific, but also those of our friends, the Japanese.

We also indicated that complaints about Japan's closed marketplace were not just coming from America.

When he said that American businessmen ought to be more aggressive, we had no quarrel with that. Yes, they should be more aggressive. But we pointed out that the Germans, the Koreans, and others also are having great difficulty in penetrating the Japanese marketplace and, when we talk to the Germans and the Koreans, they are not exactly shoddy salesmen, and so it just is not the American businessman's fault alone. We can always shape up and do better and we need to do better, but we need not run for cover when the Japanese point to that as the reason Americans are not penetrating the Japanese marketplace. There are many other problems, as I shall be discussing in the future.

I think we should take a look at the Gephardt language. I think certainly we should take a careful look at the kind of language that will help to open up those foreign markets which stubbornly resist, through one way or another, the penetration by American goods.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I indicated to Mr. Nakasone that the action taken by the other body in passing the Gephardt amendment is a very strong signal of sentiment in the Congress and in the country. I indicated that I personally was sympathetic to the goals of the Gephardt amendment.

I will certainly be willing to support some variation on the Gephardt concept in the Senate. In a nutshell, I am for the expansion of the world economy through open competition and open markets.

Retaliation for unfair trade practices is already a GATT principle and a Gephardt-like approach reinforces that principle. I am not saying here today that I will support the Gephardt language, every jot and tittle, every word, every phrase, every clause. I certainly am not saying that. But supporting a piece of paper means nothing.

And so I hope that the Senate will put into place a mechanism of its own which gets at the problem of unfairness and closed markets to American products and services.

Now I have confidence that the distinguished chairman of the Finance Committee and the members of that committee are not only working hard to produce good, effective legislation—I have confidence that strong legislation will come out of that committee, but I, for one, am not willing to trim our sales in connection with trade legislation just in order to get a piece of paper on the President's desk that he will sign. I think it has to be fair, it has to be effective, and it has to be comprehensive.

But the President faces the same problems that we all face and that is a growing, already massive trade deficit between these two countries, Japan and the United States, and a massive trade deficit overall. And if the President wants to veto effective legislation that is hammered out carefully and thoughtfully by all sides, Republicans and Democrats, in this Congress, then that is his call to make. But I am absolutely unwilling to trim the sales just in order to avoid his veto. He too, is going to have to think thoughtfully and carefully also about this legislation.

I am not going to be guided, necessarily, by the inside-the-beltway conventional wisdom in connection with this legislation. This Senator is not going to be so guided. That is the kind of wisdom that has carried us down the road to disaster already. We have gone on and on and on and we have let protectionist societies, export-oriented societies, continue to take American markets elsewhere in the world and in this country of ours and we have watched countries like Japan as they have utilized all sorts of ways, all kinds of mechanisms, some subtle, some not so subtle, to keep American goods out of their own markets.

I will be talking more about that as time goes on. That is the kind of road we have been traveling. And to hear those who, inside of the beltway, consistently condemn any new approach, especially if it comes from Democrats, as a protectionist approach—that is the familiar charge that the administration has used against us for all these years on anything that we Democrats suggested. The Democrats have sought repeatedly to bring to the attention of the administration the dangerous road we were traveling, the fact that we were getting nowhere, the fact that things were getting worse, and, yet, all we saw was inaction instead of action. And always the word "protectionist" was used to clobber the Congress if it attempted to raise its head and make legislative proposals on trade.

Now the worm has turned and we intend to put a trade bill on the President's desk. And I am not going to run for cover every time someone points a finger and says, "Ah, that's protectionist." I would say to those, "What would you have us do? What is your suggestion? We have tried it your way and we see where we are? A $170 billion trade deficit."

That is where we are now, and we are going deeper and deeper into the maelstrom of triple digit deficits. We hear month after month, I have heard it many times, that we have turned the corner—the administration says "we have turned the corner"—only the next month to see that things have gone worse for the next quarter.

"What would you do?" That is what I want to know from the critics. Keep on the same direction and keep on seeing our factories close down?

Yes, we point to the increase in service jobs. We were told some years ago by Don Regan that McDonald's and K-Mart are the wave of the future. Well, we all applaud the growth of the service industries. We want to see them grow more and we are glad to see them add jobs. But those jobs are not high-paying jobs and we are seeing our industries eroded and the doors of our manufacturers close.

Mr. President, the dialogue that we engaged in with Mr. Nakasone was useful and necessary. We need to communicate effectively with Japan. We need to understand each other. Senators ought to travel to Japan and attempt to understand the Japanese system. I would hope to return to Japan myself in the near future. We cannot afford to allow misperceptions to unnecessarily drive tensions upward—that is unproductive, dangerous and foolish. But we must be firm in our resolve to turn this problem around in a sustained—and I underline "sustained"—and fair, and predictable way over the next few years.

Mr. President, I yield the floor.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred.)

THE TRADE BILL

Mr. DOLE. Mr. President, I have listened with interest to the majority leader discussing our business with Prime Minister Nakasone. He is absolutely correct. It was a very serious discussion. I think the Prime Minister must know the depth of feeling, not only on the part of those of us in the Senate, but of our constituents across the country who really believe that we are treated unfairly in Japanese markets. They believe that we do not have access to markets, that they are not open. And then, this morning's announcement that there is a worldwide trade surplus of $101 billion in Japan's favor, will certainly make the Prime Minister's mission here that much more difficult.

As the distinguished majority leader pointed out earlier, we are friends with Japan, we are allies, they are important to us, and we are important to them. Certainly it is one of the leading industrial nations, and probably the most aggressive trading nation in the world.

So I would hope that we will have more than another Nakasone plan, or another promise by the Japanese. I hope before the Prime Minister leaves Washington—and when he returns to Japan—we will have constructive efforts to open up Japanese markets, and to motivate the Japanese to buy more American goods. As I travel around the country, I think it's clear the American people do not want protectionist barriers to trade, because they understand it means better bargains for consumers in America. So, if you have lost your job or lost your farm because of unfair trade practices, then that is not something you can blow away by telling them about free trade or fair trade.

So, yes, we believe in open markets. We believe in access. We believe when somebody in some other country, some producer, makes a product that is competitive, he should have access to our markets. And if that same country permits us access to their markets, where people or companies in our country make a competitive product or grow competitive grains, or whatever.

So, I think that will mean we are going to have a trade bill. And as the majority leader indicated, hopefully it will be one the President will sign. I

frankly do not see much to be gained by making it a political issue in 1988. I would rather have a trade bill in 1987. But yesterday the House passed such a trade bill.

The Speaker was correct when he called it * * * constructive, creative, and comprehensive" because the House bill will "construct" new barriers to international trade. It will "create" giant new problems for America. It will create "comprehensive" new dangers.

In short, the Speaker said it is a "monumental" piece of legislation. Again, he hit the nail on the head because it is a monumental disaster.

Chairman ROSTENKOWSKI had tried to fashion a responsible piece of legislation. The Gephardt amendment has torpedoed any hope that. Obviously, the Gephardt amendment is never going to become law. By a vary narrow margin it passed in the House. It will not pass in the Senate.

So I suggest that we ought to get on to talking about trade legislation and not political amendments offered by anybody in either party on either side of the Capitol.

No wonder, today is May Day: An SOS has been sent out to the Senate to rescue America's trade position from the misguided action of the House.

Mr. President, I think we can work together. As I speak, I know the Senate Finance Committee is working on trade legislation, and hopefully that will be bipartisan legislation that we can pass rather quickly in the Senate.

STARVATION KNOWS NO POLITICS IN MOZAMBIQUE

HALF A LOAF, WHILE PEOPLE STARVE

Mr. DOLE. Mr. President, a new famine disaster is unfolding in the southern African country of Mozambique—a country already torn by war, and struggling under the disastrous polices of a repressive Marxist regime.

The United States has already started sending help, and the administration deserves credit for its quick response. But we are only dealing with half the problem:

Because we have limited our aid to the Marxist regime in control of the capital, Maputo, and have refused to even talk to the resistance forces of "RENAMO", about helping the hundreds of thousands of hungry in the large, war-torn parts of the countryside, where RENAMO has much greater access.

AID, which is in charge of our assistance program, has offered the lame excuse that they cannot locate anyone from RENAMO to talk to. In fact, there is a RENAMO office here in Washington, that is practically beating down the door of the State Department to ask for aid.

What gives here? Millions are starving on both sides of the political lines in Mozambique. The men, women, children, little babies—they are in equal desperation, regardless of the politics of the area they live in.

PUT ASIDE POLITICS AND PICK UP THE PHONE

Let us put aside politics—in the interest of simple humanity. Let us save lives first; and then we can worry about where people put their political allegiance.

I call on both sides in the conflict to call and observe a legitimate, real ceasefire; I call on both sides to cooperate with us, with the involved international agencies, and with each other—to get food to starving people.

And I call on the State Department and AID to get off their duffs, pick up the telephone, call the local RENAMO office here in Washington—and start the food flowing to people who do not have much time left.

Mr. President, I ask unanimous consent to include in the RECORD a letter I have written today to Secretary of State Shultz, and AID Administrator McPherson, urging these steps.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 1, 1987.

Hon. GEORGE P. SCHULTZ,
Secretary of State,
Hon. M. PETER MCPHERSON,
Administrator, Agency for International Development, Washington, DC.

DEAR GEORGE AND PETER: Like all Americans, I am deeply concerned about the famine which is unfolding in the southern African country of Mozambique. I applaud you for the efforts that you have already undertaken to provide American assistance to help meet this crisis.

At the same time, I am disturbed by what appears to be a conscious decision not to seek the assistance of the RENAMO resistance—which controls substantial portions of the countryside—to facilitate delivery of relief.

As you know, there is a RENAMO office here in Washington. I am confident that it is willing and anxious to work with you, on a totally non-political basis, to facilitate the provision of assistance to people in the war-torn zones of the country.

I would therefore propose that our Government undertake a three part program: (1) urging a temporary ceasefire by both sides, for the sole purpose of permitting delivery of food to people in war-torn areas; (2) urgently establishing contact with RENAMO, to explore the possibility of facilitating the provision of food assistance, through its organization or through some other vehicle, to all needy people in Mozambique; and (3) offering the good offices of the United States to establish communications between the Maputo regime and RENAMO, for the sole and nonpolitical purpose of facilitating the delivery of relief supplies.

Sincerely yours,

BOB DOLE.

BICENTENNIAL MINUTE

MAY 1, 1894: COXEY'S ARMY AT THE CAPITOL

Mr. DOLE. Mr. President, on May 1, 1894, 93 years ago today, police arrested a man for walking on Capitol grass. This may seem an unlikely event to commemorate, but the man was Jacob Coxey, and his arrest culminated one of the most dramatic protest movements of the 19th century.

The United States was suffering a terrible depression in 1894, and more than 2 million unemployed men wandered the countryside in search of work. The Federal Government disclaimed any responsibility for the unemployed, but the crisis was too severe for local governments and private charities to handle. In Ohio, affluent businessman Jacob Coxey proposed that the Federal Government end the depression by putting unemployed men to work building public roads. Sympathetic Congressmen introduced a "good roads bill," but Congress refused to act.

"We'll send a message to Washington with boots on," said Coxey, and he called for a march of the unemployed on Washington. On Easter Sunday, only 100 men started the march, accompanied by half as many reporters, who generally ridiculed their efforts. But as the march progressed it attracted greater numbers, and the desperate plight and determination of "Coxey's army" came to impress many observers.

Officials in Washington viewed the approaching marchers as an invading mob. Masses of police and Federal troops were called out to protect the Capitol, and they refused to allow marchers on the grounds. Coxey slipped through the police lines. He raced for the steps where he tried to speak, but was arrested and driven off to jail. Jacob Coxey was convicted for carrying banners on the Capitol Ground, and for walking on the grass. He was sentenced to 20 days, and fined $5. That was the price in 1894 for attempting to carryout one's constitutional right to petition Congress.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for 5 minutes each.

The Chair recognizes the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Thank you, Mr. President.

STAR WARS ADDS NOTHING TO DETERRENCE

Mr. PROXMIRE. Mr. President, why has there been peace between the hostile, heavily armed nuclear superpowers for more than 40 years? Why has there not been a major military crisis between the two armed-to-the-teeth nuclear powers since the 1963 Cuban missile crisis, 24 years ago? What has happened to the regular occurrence of a major European war every generation that has punctuated major foreign power relations for centuries? The answer lies in the fact that we live in a nuclear age. What message does that give us? The message is the terrible image of a flattened and devastated Hiroshima. The heartbreaking memory of a Nagasaki that almost disappeared from the face of the Earth a few weeks later only enforces that. Every literate person knows that the small primitive atom bomb that destroyed Hiroshima and the single little bomb that wiped out Nagasaki were only feeble forerunners of the 1987 nuclear monsters that now sit ready-to-go in the arsenals of the United States and the Soviet Union. Informed people throughout the world know that each superpower has not 1, not 10, not 100, but literally 10,000 massive strategic warheads deployed at sea, in the air, and on the land. Each superpower knows the adversary can deliver all of that arsenal on his cities. He knows that even a small fraction of that destructive power could devastate his country. He knows the adversary continues to expand its arsenal every day of every month of every year. And that isn't all. Each superpower has many thousand more tactical nuclear warheads.

So why is there superpower peace? Because there is overwhelming, crushing, mind boggling deterrence. No cause however noble or inspiring has revived the regular rhythm of a major superpower war. Why? Because the illusion that a nuclear war to advance democracy, or defend freedom, or establish a new order or for whatever purpose could achieve its end has been drowned in the near universal understanding that a nuclear war would bring no benefits only appalling destruction and widespread death to both sides. For 40 years an international understanding of the terrible consequences of nuclear war has brought peace. It is the widely known consequences of nuclear war that has made deterrence a reality.

What would the strategic defense initiative [SDI] or star wars do to deterrence? Our most respected independent experts at the National Academy of Sciences by a huge 20-to-1 consensus tell us SDI will very likely not work. Our President, our Secretary of Defense, and the top experts they have hired to research it believe it has a strong chance of working. The Congress has appropriated several billion dollars a year to research SDI. What happens to the deterrence that has kept the peace for 40 years if the Congress proceeds with SDI? Keep in mind that the heart of deterrence is the universal certainty that nuclear war will bring catastrophe to everyone involved. What does SDI do to that certainty? SDI at its best can never provide a guarantee that an enemy's nuclear attack will not penetrate and destroy American cities and kill tens of millions of Americans in a single attack. It can never guarantee that the United States would survive a nuclear war. Indeed as I have said the great bulk of expert independent American scientific opinion believes that the prospect that it could succeed at any time in the next 25 years is poor or very poor. Certainly under these circumstances an American effort to begin SDI deployment would provoke a vigorous Soviet effort to develop and deploy the technology that would have an odds-on chance to overwhelm it.

So with SDI, what happens to the certainty of nuclear destruction that has kept the superpower peace for the past 40 years? Whether it was a success or a failure SDI would surely destroy the assurance in the minds of many that nuclear war would spell disaster. Consider the grim scenario. On the one hand, an American President sits in the White House with his trillion dollar beauty—SDI fully deployed—confident that his country could survive a nuclear attack. On the other hand the Soviet Union would have its new technology expressly designed to penetrate SDI. A Soviet leader might be sure his command could shoot through, under and around the American star wars, the way Hitler's panzer divisions penetrated the Maginot Line. With SDI deployed, the certainty that a nuclear war could only bring losers would fade away. As it faded, the deterrence that has kept the peace for 40 years and, if given the chance, might keep it for many more would also die. The grim fact is, Mr. President, that SDI will not increase national security and the prospects for peace. By diminishing deterrence, it will increase the terrible prospect of nuclear war.

THE STRING IS RUNNING OUT

Mr. PROXMIRE. Mr. President, this Congress is caught between a rock and the hard place. The rock is the huge deficit and the legal requirement to reduce it to $108 billion in fiscal year 1988. The hard place is an economy groaning under the huge debt we have incurred over the past decade.

About 18 months ago, we approved an emergency deficit control measure. It set forth a schedule which would reduce the deficit to that wonderful figure—zero—in 1991. The first year, 1986, the deficit was to have been $172 billion. Instead, it came in at a record high $221 billion.

This year—1987—the deficit was to be reduced to $144 billion. We passed a budget last year which projected a deficit of $154 billion. Even before the ink dried on that document, the estimated deficit had jumped to $170 billion. The Nation's media swallowed that figure hook, line, and sinker. They looked at the projected drop of the deficit of $50 billion and proclaimed hosanna, that the deficit was under control.

Now, that cheer sounds hollow, indeed. Most independent experts are saying that the deficit for this year will be $200 billion, give or take $10 billion. Some progress! The deficit for 1987 is going to be about the same as it was in 1983, when this Nation was in the midst of the deepest recession since the Great Depression. After 5 years of economic recovery and expansion, we have the same size deficit we had during a sharp recession. If that is progress, spare me any more of it.

This year, we stand a good chance of going through the same charade again. We are now considering a budget resolution which ostensibly would reduce the deficit to about $135 billion. But by the time the economic projections are deflated to more reasonable figures, by the same spending estimates grow and revenues fall, as always seem to be the case, we will be looking at another deficit in the $200 billion range. We are still looking at $200 billion deficits "as far as the eye can see," despite Gramm-Rudman and an aging economic expansion.

Mr. President, when the Federal Government incurs a deficit, it must borrow the money to pay for it. And like any other borrower, it must pay interest. The amount of interest is determined by two factors: The amount of debt which must be financed and the interest rate which must be paid. If the deficit is $200 billion and the interest rate is 8 percent, then the taxpayers must pay $16 billion in interest costs.

That money must be paid. It is the one true "uncontrollable" in the budget. And because it must be paid, it is not available for any other purpose—education, health, environmental protection, or any other worthwhile activity of Government.

Those growing unavoidable interest costs explain why this Senator is convinced that the first use of any additional revenue must be to reduce the deficit, not to increase spending. Unless those interest costs are controlled, and quickly, they will soon consume all the revenue from the personal income tax. And that is the revenue that supports social spending by the Government. This is a terrible equation: no revenue, no spending. Yet

it is an equation which will soon be driving social policy in this country, unless we get control of the deficit.

Surely, you might say, an argument can be made, that the situation is not this bad. Will not economic growth generate enough new revenue to support this Nation's social needs. After all, are we not one of the richest nations on this Earth?

Mr. President, this statement used to be true. But now it is questionable. We are a rich nation, no doubt about it. Yet more and more of our wealth is based on debt, not on the productive ability of our economy. We are borrowing to keep up appearances, and our wealth is being dissipated.

Warning signs abound that our economy is overburdened. What are these signs? First, look at GNP growth, which was an anemic 2.5 percent last year. Given that the budget deficit was hitting a record high and that the Federal Reserve Board was printing money at an irresponsible pace, this growth rate is a disaster. Second, look at the trade deficit. We try to jump start our economy to get it moving faster and much of the effort is diverted to get it moving faster and much of the effort is diverted to foreign producers. Third, look at interest rates. They are now heading up after a long period of decline, in part because of the need to attract foreign money to finance our deficit. Inflation, once again, is becoming a concern. Add these signs to the fact that this expansion is now old, and we have ample cause for concern that we may soon be facing a sharp recession. Such a recession could easily turn into a depression because of the huge levels of debt carried by consumers, corporations, and the Federal Government.

Mr. President, this budget may well be the last chance we have to correct some of these fundamental imbalances and avoid a dangerous recession. Next year is a Presidential election year. Almost by definition, we will be unable to take politically unpopular actions. And a new administration will assume office in 1989. That means time will pass before it is able to get organized, and present Congress a plan. What this means is that, absent action this year, it will be the summer of 1989 before we will be able to do anything decisive and 6 months to a year after that before our actions really take effect. That will likely be too late.

I have painted a bleak picture here, but it is one I believe to be realistic. It explains why the $108 billion deficit target is still a worthy goal and why I will oppose efforts to do less.

Mr. President, I thank the distinguished leaders, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

NOMINATION OF WILKES C. ROBINSON

Mr. LEAHY. Mr. President, the nomination of Wilkes C. Robinson to be judge of the U.S. Claims Court was ordered reported by the Judiciary Committee on April 29, and is now before the Senate. On April 7, 1987, this nominee appeared before the Judiciary Committee for a hearing on his nomination. Because I presided at part of that hearing, and questioned Mr. Robinson extensively, I am familiar with the record on which this nomination is being considered by the Senate. While I do not oppose the nomination, I do have some concerns about it which I would like to share with my colleagues.

Mr. Robinson described himself at the hearing on April 7 as "a journeyman lawyer." That phrase aptly describes the variety of his legal experience. He was first admitted to practice in his native Alabama in 1951. After a few years as an associate in a general law practice, he served briefly as a judge of both a municipal and a domestic relations court. His judicial career ended and a second one began when he bacame an attorney for the Gulf, Mobile & Ohio Railroad Co. in 1956. For the next 10 years, he appeared frequently before State and Federal regulatory agencies, and sometimes in the courts, on behalf of railroad corporations. In 1966, he became chief commerce counsel for the Monsanto Co., in St. Louis, and 4 years later became the general counsel and vice president of Marion Laboratories in Kansas City. He remained there until 1980, when he began yet another phase of his career as president of the Gulf & Great Plains Legal Foundation in Kansas City. Since leaving the foundation in 1985, Mr. Robinson has conducted a corporate legal practice on a limited basis, and is currently a partner in a business brokerage firm which he founded.

This résumé would seem to speak for itself. It describes a varied and successful legal career that includes some hands-on litigation practice, nearly all prior to 1966. Perhaps it is not the ideal résumé for a trial court position such as the one to which Mr. Robinson has been nominated. The best candidate would be a lawyer who likes to try cases, who has recent and extensive experience in trying cases, and whose résumé reflects that inclination and experience. But certainly nothing in Mr. Robinson's résumé would disqualify him from favorable consideration to be a U.S. Claims Court judge.

The problem is that this is not exactly the résumé that Mr. Robinson presented to the Judiciary Committee. Specifically, his responses to the committee's questionnaire materially overstate his involvement in the litigation of some of the cases in which the Gulf & Great Plains Legal Foundation participated while he was the foundation's president.

The questionnaire which the committee asked Mr. Robinson—as it asks every other judicial nominee—to complete includes a request to "describe the 10 most significant litigated matters which you personally handled," and to "describe in detail the nature of your participation" in each case. Mr. Robinson's response, while noting that "most of my trial work occurred during the period from 1954 to 1966," goes on to list 15 cases, 6 of which date from the period of 1980–85 when the nominee was president of the Gulf & Great Plains Legal Foundation. The Judiciary Committee's investigation revealed significant discrepancies between the nominee's description of his participation in some of these cases, and the recollections of opposing counsel and, in some instances, of his cocounsel. These discrepancies were not fully resolved by the testimony of the nominee on April 7.

The overall impression we gained from talking to the other participating counsel in these foundation cases, and from examining the official reports of the cases in the Federal Supplement and the Federal Reporter, is that the nominee was not directly involved in the day-to-day conduct of the litigation. He was the supervisor of the foundation staff attorney who actually litigated the cases, or who assisted private counsel in doing so.

There is nothing wrong with that. What is disturbing, though, is that the nominee's questionnaire responses give a different impression, and in some instances simply misstate the facts.

For one case, for example, captioned Allison versus Block, Mr. Robinson states in his questionnaire that he had "directed the investigation of the case, filing of the suit, and supervised litigation."

In fact, there were two related cases, but the foundation did not get involved in either of them until after the trial had been concluded. Mr. Robinson's description of his involvement was misleading at best. Neither Mr. Robinson, nor any attorney working for the foundation, filed either suit. It follows that Mr. Robinson did not "investigate" the case before suit was filed. And the assertion that Mr. Robinson "supervised" the litigation is

questionable, since private counsel tried and argued the cases, and apparently remained in control of the litigation throughout. It may be that Mr. Robinson supervised the activities of the foundation staff attorney who, according to private counsel, spent a great deal of time on the case and provided invaluable service to the clients. But the nominee's own proximity to the action may best be judged by the fact that he did not even enter an appearance in either case. This is also true of some of the other cases that Mr. Robinson cited as among his most significant litigation experiences.

Mr. Robinson has filed with the committee an explanation of his answers which resolves the major discrepancies among his recollections, those of the other participants in the case, and the official reports of the decisions. But that should not have been necessary. He should have given the committee accurate answers the first time.

Mr. Robinson appears to be qualified in terms of experience to serve on the Claims Court. As I have already stated, his career reflects familiarity with a broad variety of legal endeavors, and his integrity, intelligence, and willingness to work hard are not in dispute.

In short, I believe that this nomination is ready for favorable action by the Senate. But I think we must take this opportunity to put every nominee on notice that the Judiciary Committee expects them to respond to our questionnaire carefully, honestly, and accurately in every respect. Nominees are required to attest to the accuracy of these responses, just as the testimony at confirmation hearings is taken under oath. The committee will not hesitate to seek to verify the statements made in the questionnaire. Discrepancies such as those found in this case will inevitably prove embarrassing to the nominee. They may also, in future cases, prove injurious to the nomination.

AMERICA'S FOOD BANK NETWORK

Mr. DIXON. Mr. President, on May 3-6, the Food Marketing Institute Trade Show will be taking place in Chicago, IL. On this occasion, I would like to bring to your attention an extraordinary effort by America's food companies to feed our hungry citizens.

That effort has been coordinated since 1979 by Second Harvest, a Chicago-based nonprofit organization committed to bringing food to the hungry—food which would otherwise go to waste. Second Harvest actively solicits and distributes surplus food from manufacturers and retailers to feed those most in need, such as the elderly, the homeless, and families headed by unemployed or underemployed parents.

Second Harvest is the only national network of food banks. Last year alone, Second Harvest collected 352 million pounds of vital, nutritious surplus food from more than 200 major members of the Nation's food industry. This food was then allocated to nearly 200 food banks around the country. In turn, this urgently needed food was channeled to more than 38,000 social service agencies to serve the hungry in their communities.

Mr. President, I applaud the generosity of these companies, many of whom are in Chicago to exhibit their fine products at the Food Marketing Institute Show.

A list of donors include:

A.&J. Levy Zentner Company; A.E. Staley Manufacturing Company (Fresh Start Bakeries); ADM Milling Company; Alex Foods, Inc.; Allen Canning Company; Amboy Specialty Foods; Anchor Hocking Corporation; Anderson, Clayton & Company; Arnold Baking; Ateeco, Inc.; Avoset Food Corporation; B. Manischewitz Company; Banquet Foods Corporation; Basic American Foods Corporation; Beatrice Companies, Inc. (Beatrice Grocery Products Division, Beatrice Meats, Inc., Fisher Nut Company, Meadow Gold Dairy Products, Mountain High Yogurt, Rosarita Mexican Foods Company, Tropicana Products, Inc.).

Beech-Nut Nutrition Corporation; Bentley & Bentley, Inc.-Big Valley; Best Foods-CPC International, Inc.; Better Baked Foods, Inc.; Borden, Inc. (Realemon Foods); Boston for the World; Bridgford Foods Corporation; Brown & Portillo, Inc.; Bruno Scheidt, Inc.; Bush Brothers & Company; Cadbury Schweppes, Inc. (Duffy-Mott); Calavo Growers of California; Campbell Soup Company (Pepperidge Farm, Inc., Mrs. Paul's Kitchens, Inc., Vlasic Foods, Inc.); Cargill, Inc.; Carlstrom Foods, Inc.; Carnation Company; Celestial Farms; Charles F. Cates & Sons, Inc.;

Chef Francisco Inc.; Chipman-Union, Inc.; Chock Full-O-Nuts Corporation; The Clorox Company (Food Service Products Company, Kingsford Products Division, Moore's Food Products); Coca-Cola Company Foods Division; Consolidated Biscuit Company; Cooperation Brands, Inc.; Cornnuts, Inc.; Corr's Natural Beverage Company; Country Fresh, Inc.; Creek Food Products; D.B. Berelson & Company; Dairymen, Inc.; The Dannon Company; Del Monte Corporation; Dole Foods; Dryers Grand Ice Cream; Durkee Foods, E.J. Brach & Sons; East Baltimore Commissary;

Farley Candy Company; First Foods Virginia; Fleetwood Snacks, Inc.; Food Products International; Foodmaker, Inc.; Foremost Dairies, Inc.; Fort Howard Paper Company; Franco, Inc.; Friendly Ice Cream Corporation; Frito-Lay, Inc.; Froz Fruit Corporation; G.H. Bass; G.M.B. Enterprise; Gaines Manufacturing Company Inc.; General Biscuit Brands; General Foods Corporation (Claussen Pickle Company, Entenmann's, Inc., Oroweat, Oscar Mayer Food Corporation); General Mills, Inc. (Creative Dining Division, Red Lobster Inns of America, Yoplait USA);

Geo. A. Hormel & Company; Gerber Products Company; Globe Products Company, Inc.; Golden Dipt Company; Golden Grain Macaroni, Inc.; Golden West Foods, Inc.; Goldkist Poultry; Greenbay Foods; H.J. Heinz Company; H.P. Hood, Inc.; Haribo of America; Harmony Foods Inc.; Hershey Chocolate Company; Imperial Cup Corporation; International Frozen Foods, Inc.; International Multifoods Corporation; International Salt Company; J. Phillips; J.M. Smucker Company; J.P Sullivan Company; J.R. Simplot Company; J.R. Wood, Inc.;

J.W. Allen & Company; Keebler Company; Kellogg Company (Mrs. Smith's Frozen Foods Company); Kimberly Clark Corporation; Knotts Berry Farm; Kraft, Inc.; The Kroger Company; Krystal Company; L. Karp & Sons, Inc.; L.S. Heath & Sons, Inc.; La Victoria Foods, Inc., Lamb-Weston, Inc.; Land O'Frost Inc.; Land O'Lakes, Inc.; Laura Scudder's Inc.; Lawry's Foods, Inc.; Leaf Confectionery, Inc.; Lender's Bagel Bakery; Lever Brothers Company; Libby's; Life Blend, Inc.; Lucky Stores, Inc.; Lykes Pasco Packing Company; M. Polander & Son, Inc.; M.A. Gedney Company;

MJB Company; Mahchena Corporation; Malt-O-Meal Company; The Martin-Brower Company; Maryland Cup Corporation; Maryland Paper Box Company; Matthew's All Natural, Inc.; Maui Land & Pineapple Company; Inc.; McCaffery Baking Company; McCormick & Company, Inc. (McCormick-Schilling); McDonald's Corporation; McIlhenny Company; McKee Baking Company; Mid America Refresh, Inc.; Midwest Coast Transport, Inc.; Mother's Cake & Cookie Company; Mother's Kitchen, Inc.; Mrs. Crockett's Kitchen; Musco Olive Products, Inc.; Nabisco Brands, Inc.; National Beverage Company; (Shasta Beverages, Inc.); National Fruit Product Company;

National Oats Company, Inc.; Nature's Quality; Nemos Bakery, Inc.; Nestle Foods Corporation; New Day Distributors; Nutri-Foods International; Ocean Spray Cranberries, Inc.; Ohio Pure Foods, Inc.; Orange Bakery; Ore-Ida Foods Company, Inc.; Park Sausage; Peanut Corporation of America; Pepsi-Cola Bottling Company; Perlman-Rocque Company, Inc.; Pet, Inc.; Pillsbury Company; (Azteca Corn Products Division, Green Giant Company, Jeno's, Inc., Van De Kamp's Frozen Foods); Popsicle Industries, Inc.; Prince Matchabelli; The Procter & Gamble Company;

Quaker Oats Company; Queen International Foods; R.T. French Company; Ragu Foods, Inc.; Ralston Purina Company (Continental Baking Company, Inc.); Real Fresh, Inc.; Rich Products Corporation; Rich-Seapack Corporation; Richardson Foods Corporation; Riviana Foods, Inc.; Roman Meal Company; Ross Laboratories Division; Rykoff-Sexton, Inc.; S.B. Thomas, Inc.; S.C. Johnson & Son, Inc.; Safeway Stores, Inc.; San Antonio Foreign Trading Company; Sandoz Nutrition Corporation;

Sara Lee Corporation (Bali Company, Bryan Foods, Inc., Chef Pierre, Inc., Fuller Brush Company, Gallo Salame, Hanes Knitwear, Inc., Hillshire Farm Company, Kitchens of Sara Lee, L'Eggs Brands, L'Eggs Products, PYA/Monarch, Inc., Standard Meat Company); Sathers, Inc.; Savannah Foods & Industries, Inc.; Scandia Seafood; Schaffer Clark & Company, Inc.; Seabrook Foods, Inc.; Seafood Marketing; Shaklee Corporation; Shared Services; Society of St. Andrews; Specialty Brands Inc.; Spreckels Sugar Division; Springs Industries, Inc.; Steller Industries, Inc.; Stokley USA, Inc.;

Sundor Brands Inc.; Sunkist Growers, Inc.; The Suter Company Inc.; Sweetheart Products Group; Taco Bell; Target Marketing; Tetley, Inc.; Thomas J. Lipton, Inc. (Good Humor Corporation); Timber Line

Products; Tommy's Foods, Inc.; Trappe Packing Company; Treesweet Products Company; Tree Top Inc.; Uhlmann Company; United Provisions Company; Universal Foods Corporation; VIP Sales Company, Inc.; Valley Baking Company; Valley Foreign Trading; Ventura Coastal Corporation; Waterfield-Butterfield Farms; West Coast Products Corporation; Westvaco Manufacturer; Wyandot Popcorn Company.

TOO LITTLE, TOO LATE

Mr. SIMPSON. Mr. President, Sony chairman, Akio Morita, made the incisive observation at the Shimoda Conference in Tokyo last week that Japan "often does too little too late" to correct its trade problems with the United States. Those few well chosen words describe both the problem and a key to a solution for some of our longstanding bilateral trade disputes.

Japan would do well to abandon delaying tactics, prolonged negotiations, and incomplete gestures and act quickly to eliminate barriers to competitive U.S. goods and services. Action is essential and will contribute importantly to improving both our economic and political bilateral relations.

I observe that Prime Minister Nakasone is sincerely attempting to lead his government in this constructive direction under the most difficult of political circumstances. I often speak here of the products of soda ash, coal, and beef and the absolute requirement of access. Yet even the modest United States request to Japan for tariff reciprocity on chocolate has become an internal struggle with the Prime Minister encouraging immediate equalization of the tariffs, and the Ministry of Agriculture, Forestry, and Fisheries unilaterally announcing a duty rate and timing far less acceptable to the United States.

The chocolate tariff should be an easy gesture for Japan to make to the United States. It would be more than symbolic. I hope that Prime Minister Nakasone's enlightened leadership will prevail on this and so many other market opening measures which he so correctly recognizes are as important to Japan as they are to the United States. I sincerely commend this remarkable international statesman for his efforts and heartily welcome him to Washington.

RAPID CITY THRILLERS: THE PRIDE OF THE BLACK HILLS

Mr. DASCHLE. Mr. President, I wish to bring to the attention of my colleagues the outstanding success of the 1986-87 Continental Basketball Association Champions, the Rapid City Thrillers.

The Thrillers captured their third straight CBA Championship Easter Sunday in Rapid City, SD, by defeating the Rockford Lightening 127 to 120, thereby winning the CBA championship series four games to one. South Dakotans applaud the Thrillers' accomplishment and take great pride in their championship team.

While the CBA's association with South Dakota has been short, it has also been mutually rewarding. The Rapid City community has embraced the Thrillers, and the team has responded.

The Thrillers moved to the Rushmore Plaza Civic Center in Rapid City at the beginning of the CBA playoffs. Since the move from Tampa Bay, the Thrillers have broken all of their attendence records. The turnout at their first four games alone in Rapid City exceeded their whole regular season attendance in Tampa Bay.

The Thrillers are a solid organization led by owner John Tischman, general manager Sandy Smith, and coach Bill Musselman. They have assembled a team of professionals, many of whom appear destined for the National Basketball Association. Most of the Thrillers have now joined professional basketball teams in Europe and will be attending NBA camps next fall. South Dakotans will be following their professional development with great interest.

I would like to submit into the RECORD a clipping from the Rapid City Journal which recounts the Thrillers' championship game. Writer Don Linder covered the contest and captured the spirit of that tremendous victory.

Once again, I commend the Rapid City Thrillers for their championship. I know many South Dakotans join me in looking forward to many more exciting years of CBA basketball in Rapid City.

UNDER ANY NAME, THRILLERS ARE WINNERS

(By Don Lindner)

The name is different, but the results are the same in the Continental Basketball Association.

On this Easter Sunday afternoon at Rushmore Plaza Civic Center the parade of CBA championships continued for the Thrillers, now the pride of Rapid City.

Sparked by Most Valuable Player Clinton Wheeler, the Thrillers held off Rockford for a 127-120 victory and the CBA championship series.

The final tally: four games to one.

The Thrillers, who moved here from Tampa Bay for the start of the playoffs, were dominant throughout the month-long eliminations. It left them with their third straight league championship, all under Coach Bill Musselman.

The Thrillers ousted Pensacola 4-1 in the first round and then downed Albany 4-0 for the Eastern Division title.

The playoffs may have been decisively settled, but the procedure wasn't automatic, injected Wheeler, who played a sterling game and led the Thrillers with 33 points.

"It has been hard work," said the 6-foot-1 guard with two years of professional experience. "They worked hard to stop us, but we were the better team. They never gave up, but we wore them down."

It was just another day at the office for the Thrillers for most of the game. Their leads were 21 points in both the first and second halves.

This all changed in the final four minutes when Rockford made a bid to send the series back to the Illinois city on Tuesday night.

Jim Lampley, who scored 38 points, began to find the mark repeatedly underneath. His basket with 3:23 to play pulled the Lightning to within five points at 119-114.

The crowd, unbelievably small at 2,859, had sat in an almost state of boredom for 44 minutes because of the one-sidedness. Now the faithful followers became uncomfortable.

It was time for thrilling Thrillers: Introducing John Stroeder and Dale Blaney.

Stroeder sank a rebound shot and made a foul throw off the play. Blaney fired in an 18-footer and the Thrillers' lead went up 124-114.

They had survived crunch time.

"We got a little cute with the ball," said Musselman about the sudden turn of events. "I was a little upset and called a time-out."

"When Rapid City got down to five they didn't crack," said Rockford Coach Mauro Panagglo, who won CBA titles at Rochester in 1979 and 1981.

"You had two great coaches here," noted Thrillers owner John Tuschman after the game, holding the huge title trophy. "They go back a long way. It is a league of great coaches."

CBA commissioner Carl Scheer presented the trophy to Tuschman and Musselman. "It was a great sacrifice," Musselman said of his players. "They were unselfish. This team had tremendous character and character wins. They all are champions and so are you people of Rapid City."

Don Collins' 20 points were next to Wheeler's 33. Teammates Blaney and Stan Mitchell each added 18 and Stroeder 14.

"We came to end it," and Collins, the league's No. 2 scorer during the regular season with a 27.2 average. "We were loose and in position to do it."

"It was over yesterday, I knew they couldn't come back," said Musselman about the 182-125 runaway victory that opened a 3-1 edge in the best of seven championship series.

The Saturday night crowd of 5,724, too, must have thought it was the championship game. Only half showed for the real thing Sunday.

Rockford's Richard Rellford, hampered by fouls, scored only 19 points Sunday after a 40-point eruption Saturday. Teammate Pace Mannion matched the 19 points Sunday and Bryan Warrick and Anthony Welch each netted 16.

"It is great to be Most Valuable Player, I worked hard all year and this was my year," said Wheeler about the award presented to the best player in the playoffs. "Hopefully, I can play in the NBA. I have accomplished everything in the CBA and we proved we were the best in the CBA."

Musselman was asked to compare his three CBA championship teams. The one-time Minnesota Gophers' and NBA coach said last year's team had five of the finest players ever to play in the league. "This team was one from ten. It was more flexible. We had depth and could play half court, full court and press."

His own plans? "I plan to get away and take a break," answered Musselman, "I would like a NBA coaching job, but I'll decide my future later. Right now I am

drained. I put a lot of pressure on myself in coaching."

Rockford was the Cinderella team of the series. The Lightning did not reach .500 during the regular season and then spilled La Crosse and Cincinnati in the earlier playoff rounds.

The Lightning's biggest strike came when they stunned the Thrillers in the opening game of the championship series in Rapid City a week ago.

Four straight losses, however, followed. Included were two setbacks on the Rockford home court before CBA playoff record crowds in the 7,000s.

"We look at our season total," said Panaggio, "and the way it went. We were not expected to make the championship series. We had a lot of problems; injuries, ailments and adversities. Our guys kept plugging away. Rapid City is a fine club and did what they had to do to win."

"You didn't lay down," said Scheer in a moment of comfort. "No, we didn't," Panaggio responded.

Musselman had to handle his own extreme degree of adversity, that of watching an entire team being moved to a different city while the season was still going on.

But it all turned out for the best.

"Wheeler was a great leader. Collins was outstanding. . . . It was just a great group of players and a great season," said Musselman.

HONORING FAMILY FARMING

Mr. RIEGLE. Mr. President, the State of Michigan is currently celebrating its sesquicentennial. As part of that celebration, an event will take place later this month to honor six farms in Oakland County, MI, which have been owned by the same family for 150 years or more.

Farming has been a key part of Michigan's history and development since the first settlers arrived. Michigan's terrain and climate have always provided ideal conditions for a wide variety of crops ranging from corn and soybeans to fresh fruit and vegetable operations.

These six farms in Oakland County are a symbol of the strength, vitality, and perseverance that has always characterized the people of Michigan for 150 years.

Some of these farms still contain original buildings and structures. Some of the residents can remember digging up arrowheads in their cornfields. All of these families are either the fourth or fifth generation to occupy this property. So in a very real sense, these farms are a living history of Michigan, and a heritage that we must all treasure and work to preserve.

The six who are being honored are: Paul H. Button of Farmington Hills; Carlton and Winifred Crawford of Milford; Loise Sowles and Shirley S. Patterson of Leonard; Robert L. and Ina P. Trask of Leonard; John B. Landon of Holly; and John L. and Mark K. Canfield of New Hudson.

Mr. President. It is truly remarkable that these families have been able to retain these farms for a century and a half, and it is a real mark of their tenacity, ingenuity, and plain hard work. I hope that the Senate will join me in extending my best wishes and congratulations to these six farmers, and in my hopes that they will enjoy another 150 years in Michigan.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CONGRESSIONAL BUDGET RESOLUTION—1988

The PRESIDING OFFICER. The Clerk will report the pending business.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 49) setting forth the congressional budget for the United States Government for the fiscal years 1988, 1989, 1990, and 1991.

The Senate resumed consideration of the concurrent resolution.

Pending:

(1) Byrd motion to recommit the resolution to the Committee on the Budget, with instructions to report back forthwith, with language in the nature of a substitute.

(2) Chiles Amendment No. 174 (to the motion to recommit), with language in the nature of a substitute.

(3) Chiles Amendment No. 179 (to Amendment No. 174), of a perfecting nature.

The PRESIDING OFFICER. The majority leader.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I have been discussing with the distinguished Republican leader nominations on the Executive Calendar. I indicated on yesterday that it was my intention to proceed today to the nomination of Arnold Lewis Raphel to be Ambassador to the Islamic Republic of Pakistan.

The Republican leader and I have been discussing the time for a vote on the nomination. The distinguished Senator from New Hampshire [Mr. HUMPHREY] is interested in this nomination, as are other Senators.

Mr. President, I would like to see us vote on this nomination, if we can get to a vote on the nomination today, at 11:30. The Republican leader and I can determine among our colleagues whether we can have a vote at that hour.

I understand Mr. HUMPHREY is on his way to the floor.

As to the next nomination on the calendar, Melissa Foelsch Wells, to be Ambassador to the People's Republic of Mozambique, I wonder if we can reach some understanding as to when we might vote on that nomination today.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. DOLE. Mr. President, I believe on that one, I should discuss it with the distinguished Senator from North Carolina, Senator HELMS. Obviously, there could be a vote to proceed to the nomination. I am not sure what would happen after that. There is, as I understand it, considerable opposition to the nomination on this side.

Mr. BYRD. Very well. It may be that we could not reach a vote on that today. Senators certainly have the right to debate it.

Would the Republican leader have any problem with our recessing between the hours of 12 noon and 2 p.m., with a vote to occur either on the nomination of Melissa Wells or on a motion to proceed to it at 2 o'clock? I am not saying I am going to put the request at the moment. I wonder if the leader and I could discuss it.

Mr. DOLE. Mr. President, I certainly have no objection to recessing. I think we are both working on the budget.

Mr. BYRD. Yes.

Mr. DOLE. The majority leader indicated yesterday that sometimes we accomplish more off the floor than on the floor. I know Senator DOMENICI is looking at any possibilities he might offer. I know Senator CHILES is doing likewise.

Mr. BYRD. Yes. The purpose of our conference on this side would be just that, to further discuss an amendment to be offered by Mr. CHILES. That time could be charged against the measure, against both sides.

It would be by thought that perhaps the Senate would not be in Monday. I have indicated there will be no rollcall votes on Monday. And that being the case and in the context of other matters, too, that have to do with the budget and the need for consultations and continued work thereon before we are ready to have additional votes, it might be just as well if the Senate were not in on Monday. This would accommodate committees and accommodate the consultations that we are talking about, which would mean that on Tuesday and Wednesday, then, we would hope to complete action on the budget, certainly no later than Thursday next week, with critical votes occurring at any times on those days.

These are just thoughts that I am expressing out loud and that I have been discussing with the Republican leader. I will not put any request before the Senate until I have had an opportunity to discuss these matters further with the Republican leader.

Mr. DOLE. Mr. President, if the Senator will yield, we have had some discussions with the manager of the budget, Senator DOMENICI. And he indicates as long as we started Tuesday with each side having about 8 hours, he would have no objection to yielding back to that point.

Mr. BYRD. Very well. I can assure the distinguished Republican leader that as far as our side is concerned, we would be willing to join in that request and that approach.

Mr. DOLE. As I am also advised by staff, that while Senator Humphrey has no objection to a vote at 11:30, he does have a problem with the recess, because that would permit a committee to meet, and he would like to object to its meeting, between 12 and 2.

Mr. BYRD. Very well.

Mr. DOLE. Maybe we can resolve that as soon as he comes to the floor.

Mr. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The majority leader will state the inquiry.

Mr. BYRD. Has morning business been closed?

The PRESIDING OFFICER. Morning business has been closed.

Mr. BYRD. The motion with amendments pending is before the Senate?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

I suggest the absence of a quorum. I ask that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the vote on the nomination of Arnold Lewis Raphel to be Ambassador to the Islamic Republic of Pakistan occur at 11:45 a.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays as in executive session at this time on the nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank the Republican leader.

I again suggest the absence of a quorum under the same understanding, that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I have cleared this request with the Republican leader.

I ask unanimous consent that between now and 11 o'clock there be a period for the transaction of morning business, that Senators be permitted to speak up to 5 minutes each therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF ARNOLD LEWIS RAPHEL

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 11 o'clock, the Senate go into executive session to consider the nomination of Arnold Lewis Raphel and that the time be equally divided in executive session for debate on that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the time be divided equally between the majority leaders or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Republican leader and I would like to readjust the time for the vote, slightly.

I ask unanimous consent that the vote occur on the Raphel nomination at 11:40 a.m. today and that the time between 11 o'clock and 11:40 be equally divided between the majority and minority leaders or their designees, for debate on that nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

HARRY HOPKINS

Mr. GRASSLEY. Mr. President, I rise this morning to honor an Iowan, Harry Hopkins, who was so close to President Franklin Roosevelt and so helpful to our country during World War II in the Allied movement.

The Iowa Senate recently passed a resolution asking the U.S. Postal Service to issue a commemorative stamp in honor of Harry Hopkins. I would like to second that request.

Harry Hopkins was a man of remarkable strength and character, who, though he never wore a uniform, quite literally gave his life for his country. He was a leading government figure during the Depression and put millions of people back to work during some desperate economic times in this country. But it is his wartime service, less well-known and less understood, on which I wish to focus these remarks.

Late in 1940, when England stood alone against the Nazis, many advised President Roosevelt against sending Britain the planes and ships that that country so urgently needed. They argued that they would only end up in German hands once Hitler finally overran that great ally of ours. Few gave that tiny island nation a chance of surviving the Nazi onslaught. Distressed at the implication if this were true, Roosevelt sent his friend and adviser, Harry Hopkins, that native of Iowa, to Britian to assess her chances of survival.

Hopkins was still recovering from a serious illness, and at the time he also had no Government job, title, office, or even paycheck. When he landed in England, he was too weak to unfasten his own seat belt. Yet, he kept up a pace that would have exhausted a younger man in vigorous health.

His 2 week mission soon stretched to 6 there in the country of Great Britain. After some initial and mutual wariness he struck up an enduring friendship with Prime Minister Churchill. Still, the British were unsure what he might report to Roosevelt and Roosevelt's chief adviser and Prime Minister Churchill and other English leaders were very worried. Many felt Hopkins literally held England's fate in his own hands.

Near the end of his stay, after a small dinner in Glascow with Churchill and other English officials, Hopkins was asked to say a few words. He rose, and holding on to the back of his chair, said:

I know many of you are wondering what I am going to tell the President. Well, I plan to quote to him from the book of books the truth of which my own Scottish mother knew. "Wither thou goest I will go; wither thou lodgest, I will lodge; for thy people shall be my people, and thy God my God." and then with his voice dropping very low and looking directly at Churchill, he concluded softly, "even to the end."

Churchill then at that point realizing the depth of Hopkins' commitment, wept openly.

Britishers today still recall the hope that surged through England as what Hopkins had said passed by word of mouth. Hopkins was back in London in July 1941 just after the Nazis invaded Russia. The experts predicted that Russia lacked the fire power and the will to resist the Germans and would soon fall to the Nazis. Churchill warned that if this were allowed to happen, Germany would turn her full fury at that point against England.

Once again doubting the prevailing wisdom, Hopkins secretly at that point flew to Moscow and at that point Moscow was under heavy bombardment. After several days he was convinced that the experts were well wrong about Russia's ability to sustain that battle, as they were wrong about England's ability to do it. With adequate supplies, he thought the Russian people would hold out.

That assessment led to the extension of American war aid to the Soviet Union, just as his earlier reports had spurred United States assistance to our ally England. These supplies as well as his reports were critical in enabling the Russians to hold tight on the Easter front against the Nazi onslaught.

As he prepared to fly back from his Russian Mission in 1941, it was discovered that Hopkin's life-sustaining medicine has been forgotten in Moscow. Worried about getting back to England in time to sail to Newfoundland, where Churchill was to meet Roosevelt for the first time, Hopkins insisted in taking off without that medicine. He spent much of the flight riding the tail gunner's seat to keep an outlook for enemy aircraft.

By the time his plane reached its destination, the seas were so rough the pilot could not put down. After four passes, Hopkins ordered him to land. But the launch sent to pick him up could not get close to the plane for fear of a collision. Finally Hopkins, who after the ordeal of the past 5 days, was more emaciated and weak than ever, climbed out of the plane to the roof of that plane. He then leaped off, across the turbulent waters, and onto the launch, that was there to carry him on to further service for the preservation of peace and freedom for not only the U.S. but the rest of the world.

The RAF pilot who flew the mission later recalled the heroism of his passenger Hopkins this way;

As he waved us farewell we could not help feeling that very few persons could have taken what he had endured. We wondered if there was ever any rest for a man so ill and yet showing such unbelievable courage, determination, and appreciation for the service of others. His was a noteworthy example of unparalleled devotion to duty.

The British commander who welcomed Hopkins back told Churchill he did not expect him to live through the night. But not for the last time Harry Hopkins displayed immense recuperative powers. He recovered from what was later described as the most valiant and important diplomatic mission of the war.

A few days later, he was at Roosevelt's side when the two great leaders of the English-speaking world met. He helped draft the Atlantic Charter which contained the principles that would be fought for in the coming years, as well as a vision of the peace that we now have had for the last 45 years. That vision, which Harry Hopkins did so much to shape and fight for, for endured, however imperfectly, for over 40 years.

Throughout the war, Hopkins played a key role in the allied effort. He not only made recommendations which resulted in American support for Hitler's opponents, he personally oversaw, as head of our lend-lease program, the production and distribution of U.S. supplies.

Once America herself entered the battle, his work continued. As Roosevelt's closest adviser, he orchestrated the wartime conferences at Casablanca, Teheran, and Yalta, and played a critical role in the successful functioning of the Grant Alliance.

His illness persisted, but so did he. He kept a killing schedule and shouldered enormous responsibility. Finally, in early 1946, he died in New York and was later buried in his home State of Iowa.

Because of his courage and determination in the struggle for peace and democracy, I wish to honor Harry Hopkins, as other people have done, and as the Iowa State Legislature has done, not just as one man who served his country well, but a symbol of all those who have sacrificed their own lives for the public good.

In closing, I would like to quote from the writing of someone who knew Hopkins firsthand and who spent some of the worst moments of World War II of his company. In the third volume of his memoirs on the Second World War, Winston Churchill described Harry Hopkins in the following terms:

His was a soul that flamed out of a frail and failing body. He was a crumbling lighthouse from which there shone the beams that led great ships to harbor, in the history of the United States, few brighter flames have burned.

I am submitting as well Churchill's further recollections of Harry Hopkins, and a New York Times article, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM "THE SECOND WORLD WAR," VOL. III, BY WINSTON S. CHURCHILL

On January 10 [1941] a gentleman arrived to see me at Downing Street with the highest credentials. Telegrams had been received from Washington stating that he was the closest confident and personal agent of the President. . . . Thus I met Harry Hopkins, that extraordinary man, who played, and was to play, a sometimes decisive part in the whole movement of the war. His was a soul that flamed out of a frail and failing body. He was a crumbling lighthouse from which there shone the beams that led great ships to harbour. He had also a gift of sardonic humour. I always enjoyed his company, especially when things went ill. He could be very disagreeable and say hard and sour things. My experiences were teaching me to be able to do this too, if need be.

At our first meeting we were about three hours together, and I soon comprehended his personal dynamism and the outstanding importance of his mission. This was at the height of the London bombing, and many local worries imposed themselves upon us. But it was evident to me that here was an envoy from the President of supreme importance to our life. With gleaming eye and quiet, constrained passion he said:

"The President is determined that we shall win the war together. Make no mistake about it.

"He has sent me here to tell you that at all costs and by all means he will carry you through, no matter what happens to him—there is nothing that he will not do so far as he has human power."

Everyone who came in contact with Harry Hopkins in the long struggle will confirm what I have set down about his remarkable personality. And from this hour begin a friendship between us which sailed serenely over all earthquakes and convulsions. He was the most faithful and perfect channel of communication between the President and me. But far more than that, he was for several years the main prop and animator of Roosevelt himself. Together these two men, the one subordinate without public office, the other commanding the mighty Republic, were capable of taking decisions of the highest consequence over the whole area of the English-speaking world. . . . There he sat, slim, frail, ill, but absolutely glowing with refined comprehension of the Cause. It was to be the defeat, ruin, and slaughter of Hitler, to the exclusion of all other purposes, loyalties or aims. In the history of the United States, few brighter flames have burned.

Harry Hopkins always went to the root of the matter. I have been present at several great conferences where twenty or more of the most important executive personages were gathered together. When the discussion flagged and all seemed baffled, it was on these occasions that he would rap out the deadly question, "Surely, Mr. President, here is the point we have got to settle. Are we going to face it or not?" Faced it always was, and being faced, was conquered. He was a true leader of men, and alike in ardour and in wisdom in times of crisis he has rarely been excelled. His love for the causes of the weak and poor was matched by his passion against tyranny, especially when tyranny was, for the time, triumphant.

[From the New York Times, Sept. 6, 1986]

A MODEL PUBLIC SERVANT

(By Verne W. Newton)

BETHESDA, MD.—In his haste to accumulate wealth, the former White House aid-turned-lobbyist Michael K. Deaver may have displayed poor judgment or worse. If so, however, his excesses are a matter of degree. For the past 25 years, no right has been more unalienable than the right of White House aides to cash in on proximity to power. Some decorate corporate boards, some are given instant Wall Street partnerships, some remain in Washington on big-buck retainers.

It is thus worth recalling that things were not always this way—recalling, specifically, Harry Hopkins, one of President Franklin D. Roosevelt's most trusted aides. To the modern breed of White House advisers, Mr. Hopkins must seem a pathetic loser. He arrived in Washington at the age of 43 and for the next 12 years his salary was lower than it had been before he came. He once unsentimentally described his love of his country to students at Grinnell College, his alma mater.

"Nothing must happen to it," he said, "and those of us who get a chance, and many of us will because of the things this nation has done for us, should and will be motivated when the time comes to serve it well."

He did serve it well and no one since—not Mr. Deaver, Henry A. Kissinger, Hamilton Jordan, Bill Moyers—was as close to a President as Mr. Hopkins was from 1937 to 1945. He was deputy president, chief of staff and national security adviser all rolled into one.

It was common knowledge that as a father of four, he lived on the margin. Even so, he never tried to trade on his great power or his friendship with the President. It seems never to have occurred to him. Instead of bailing out and hanging up his shingle when he could have been a hot property, he stayed on and literally helped save the world.

He was not only F.D.R.'s eyes and ears but also his legs. His crucial visits to Winston Churchill in January 1941 and to Stalin the following July helped force the Grand Alliance. So complete was Mr. Roosevelt's trust in him that when Mr. Hopkins embarked on his London and Moscow missions he carried no written instructions. When the plane carrying him to see Churchill landed, Mr. Hopkins, his body depleted from malnutrition, was too weak to unfasten his seat belt. Because of a strange, still undiagnosed intestinal disorder, he received no nourishment from food he ate and was kept alive only by painful and difficult injections and transfusions.

After F.D.R.'s death, Mr. Hopkins dragged his emaciated body into retirement. He wanted only to write a book about Mr. Roosevelt. He had no agent, no big advances, no package deals. He did not collect directors' fees or retainers. He never wrote the book, but followed the President to the grave nine months later. Gen. George C. Marshall himself an Olympian figure, said of them: "The country will never even vaguely appreciate the service he rendered."

Prime ministers and presidents from around the world had sought him out when they were in Washington. The titans of American industry were impressed with his cool, clear thinking. He could have named his job and salary. He could have had the British Commonwealth account, the Latin American account, even the Soviet Union account.

Instead, he died virtually penniless. The estate's tiny cash assets included $2 Mr. Roosevelt had sent him after he had managed to put two pounds on his ravaged body and 32 Canadian dollars he had won playing backgammon with Churchill. He cherished these momentoes as he cherished his friendship with these two great men. He would never have tried to cash in on either one.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A MULTILATERAL APPROACH TO TRADE

Mr. BAUCUS. Mr. President, this Nation faces unprecedented international challenges, reflected in the billions of dollars' worth of foreign products surging into our ports.

As a result, our political system also faces great challenges.

The American people are frustrated—they are concerned, they are anxious—about the decline of America's competitive position, and they want action.

We all know that a main cause of the trade budget deficit is the fiscal deficit. We must reduce our fiscal budget deficit if we are going to be competitive and to lower capital costs in order to compete with other countries.

At the same time, we in Congress are considering comprehensive trade legislation. The House recently passed its trade bill. We in the Senate are now working on ours.

I think that, when all is said and done, we will have a solid trade bill.

A key provision, however, of the House trade bill is the Gephardt provision. I am disappointed that the House adopted the Gephardt provision. It is unfair. And if it becomes law, it may undermine rather than enhance America's international competitive position.

The Gephardt provision requires countries that enjoy large trade surpluses with the United States to cut their surpluses by over 40 percent over 4 years or face stiff sanctions.

Now, I am sympathetic with Congressman GEPHARDT'S concerns. However, the amendment is too rigid. It is simplistic. And it takes a unilateral "Lone Ranger" approach that could undermine our relationship not only with Japan but with the rest of the world.

It assumes that the entire cause of the bilateral trade deficit is to Japan's unfair trade barriers. It does not in any way acknowledge that some of the reasons for the trade deficit are also due to problems we have here in our country, as well.

During the Finance Committee's consideration of the trade bill I will propose a very different approach.

This approach builds upon GATT and our multilateral relations. In a nutshell, it requires the President to bring an action against excessive trade surplus countries like Japan under article 23 of the GATT, on the ground that Japan's trading system nullifies benefits negotiated under GATT. If GATT fails to act, the President would seek a separate, multilateral approach. As a last resort, he must impose unilateral sanctions.

I believe that this approach has three main advantages.

First, a mulitlateral approach is more likely to succeed.

Japan's trading practices hurt us. But they hurt many other countries as well. These countries are likely to join us in the GATT. In fact, the EEC proposed bringing Japan to the GATT in 1983 but we at that time refused. The conditions are ripe for such a case today.

Second, a multilateral approach will reinvigorate the GATT by demonstrating that it can be an effective forum for major trade disputes.

The drafters of GATT originally envisioned that article 23 could be used in a situation like the Great Depression, in which closed markets and restrictive economic policies led to stagnating world economy. We face a similar situation today. Rising protectionism and deteriorating international cooperation threaten to ignite a global recession.

Third, a multilateral approach provides necessary flexibility.

We must put economic pressure on countries like Japan. Otherwise, the necessary changes will not occur. But we should do so through flexible multilateral negotiations, rather than by applying a mathematical formula that puts the trade war on automatic pilot.

The Gephardt amendment would lock us into a cycle of retaliation and counterretaliation, and counterretaliation again, because it assumes that Japan is the entire cause of the entire problem. An article 23 action in contrast, would permit us to expand the negotiations to include not only the elimination of unfair trade practices, but also changes in monetary policy, changes in fiscal policy, and a greater Japanese contribution to solving the problem of Third World debt.

In short, the Japan problem squarely presents the central dilemma facing U.S. trade policymakers today.

Foreign markets are more closed than our own. This may have been tolerable at one time. It is not tolerable now. We must insist on reciprocity.

At the same time, the United States remains the engine of world growth

and the primary defender of an open international trading system. We must avoid reflexive protectionism and seek solutions that enhance the trading system and promote overall economic growth.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANFORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I understand that Mr. HELMS wishes to proceed in legislative session for a brief period. I ask unanimous consent that the Senate return to legislative session for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

DIAL-A-PORN CONTROL ACT

Mr. HELMS. Mr. President, I send a bill to the desk and ask for it to be read the first time.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, as we know, this is a procedure under the rules.

Mr. BYRD. Mr. President, I did not object to the introduction of the bill. I objected to the reading of the bill. If the distinguished Senator from North Carolina wishes to initiate the mechanism whereby the bill will eventually be on the calendar, he can introduce a bill. It was not an objection to the introduction of the bill.

The PRESIDING OFFICER. The Senator has a right to have it read for the first time. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1118) to help prevent rape and other sexual violence by prohibiting dial-a-porn operations.

Mr. HELMS. Mr. President, I ask for a second reading.

Mr. BYRD. Mr. President, I object to second reading.

The PRESIDING OFFICER. Objection is heard. The bill will have second reading on the next legislative day.

Mr. HELMS. Mr. President, I thank the Chair and my friend and fellow North Carolinian at one time, the distinguished majority leader.

Mr. President, I am today reintroducing my legislation to bar dissemination of so-called dial-a-porn messages over the public telephone system. The bill was originally introduced on the first day of the 100th Congress, January 6, 1987, as S. 212.

Since January 6, the bill has been in the Committee on Commerce, Science, and Transportation. Thus far the committee has not acted on this legislation.

Senators may recall that my dial-a-porn legislation passed the Senate, with very little controversy, in September 1986 as part of the bipartisan, antidrug package. The House of Representatives, however, stripped out the dial-a-porn provision before sending the bill to the President for his signature.

Mr. President, I strongly believe that the Senate should act expeditiously to end dial-a-porn. Many parents and others have written me, called me, and visited me about the urgency of this matter.

In order to speed consideration of this legislation I am using the procedures under rule XIV of the Standing Rules of the Senate to have this bill placed directly on the Senate Business Calendar. I am introducing it again, and it will be given a new number but it is identical to S. 212. Instead of going to the Commerce Committee, it will ultimately be put on the Senate Calendar where it will be available for action at any time.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dial-a-Porn Control Act".

SEC. 2. Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Mr. Arnold Lewis Raphel.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand there has been a request to change the time of the vote back to 11:30 instead of 11:40. That request comes from the Republican leader.

I make that request. The chairman of the Senate Foreign Relations Committee is present. If he has no objection, we will vote at 11:30 instead 11:40.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Arnold Lewis Raphel, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Mr. BYRD. Mr. President, on this side, I designate the distinguished chairman of the Foreign Relations Committee to control the time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield myself such time as I may require.

Mr. President, I am pleased to support the nomination of Arnold Raphel as our next Ambassador to Pakistan. At 44, Mr. Raphel is a rising star of the Foreign Service and I commend the President for recognizing and rewarding talent.

Mr. Raphel brings many assets to this position. His involvement with Pakistan dates back 20 years to his graduate studies. He is fluent in Urdu and has served as political counselor at the Embassy in Islamabad. Most recently, he has been the principal Deputy Assistant Secretary for the Near East Bureau and, as a result, has been involved in some of the most vital foreign policy deliberations, including those on Afghanistan, the Middle East peace process, and the Iran-Iraq war.

As our Ambassador to Pakistan, Mr. Raphel will be responsible for handling one of the most important and difficult relationships the United States has. Mr. Raphel will be representing the United States at a time when the Afghanistan negotiations are entering a critical phase and where there appears at least some hope for an end to this cruel war. Mr. Raphel will be charged with negotiating any U.S. role in the settlement and with being sure that the rights of the Afghan people are fully protected. I believe Mr. Raphel is committed to such a task and will carry it out extremely well.

Mr. Raphel will also have to represent U.S. nonproliferation interests in Pakistan. The spread of nuclear weapons to South Asia could have catastrophic consequences for the people of the region and serve as a dangerous precedent for the rest of the world. I only hope that Mr. Raphel will lobby as hard and as effectively in Islamabad on behalf of nonproliferation as the administration lobbied the Foreign Relations Committee to defeat our efforts to strengthen the nonprolifera-

tion conditions on U.S. assistance to Pakistan.

During his last posting in Islamabad, Mr. Raphel developed a close working relationship with Pakistani leader General Zia ul-Haq. This should serve him well in advancing U.S. interests on key issues such as Afghanistan and nuclear nonproliferation. I would only emphasize the importance of also being in touch with other elements—including the leadership of the democratic opposition—in that deeply divided country. With Mr. Raphel's sensitivity to Pakistani policies, I am sure this is a point of which he is fully aware.

Mr. President, I am confident that Mr. Raphel will make an outstanding U.S. Ambassador to Pakistan. I strongly urge the Senate give advice and consent to his nomination.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Let me emphasize as best I can that I have not been trying to delay a vote on the Raphel nomination, but I must say to the Senate that there remains a significant problem with this nomination. Let me describe it as best I can.

The nominee for the position of Ambassador to Pakistan has been asked to perform just one simple task. He has been asked to go to the tax authorities of the District of Columbia and explain to them his tenure rights as a career Foreign Service officer under the Foreign Service Act of 1980, and to obtain from them a statement that they accept his claim that he is tax exempt under the provisions of the D.C. Tax Code that exempts Presidential appointees who are subject to Senate confirmation and whose tenure in office is at the pleasure of the President.

Now, Mr. Raphel is a very pleasant gentleman. I have nothing in the world against him personally. But he persists in insisting that the earlier correspondence he had with the District of Columbia in which he stated to them that he served as a Presidential appointee and at the pleasure of the President of the United States should be accepted by the Senate as proof that he legitimately did not have to pay District of Columbia taxes.

Well, he is absolutely wrong about that. The determination by the District of Columbia that he cites was made in 1964. The Foreign Service Act was changed in 1980. Career Foreign Service officers are not today appointees who serve at the pleasure of the President. By law they are career officers. They can be removed from office only under certain very specific circumstances involving decisions by promotion boards composed of other FSO's and, Mr. President, they have the legal right to appeal those decisions to the Foreign Service Grievance Board.

All right. The board has the right to order the reinstatement of the FSO and to award back pay for the period of separation.

Now, I hope the Chair understands the distinction I am making between Mr. Raphel's claim and the actual facts of the matter. But in any case, under the circumstances that I have cited, it is impossible for a reasonable person to conclude that FSO's serve at the pleasure of the President of the United States because that simply is not so. But in any case, Mr. Raphel has claimed to the tax authorities of the District of Columbia that he serves at the pleasure of the President in order to avoid paying taxes that he is required to pay under the law.

Now, that is the difficulty I have had with this nomination. I do not question Mr. Raphel's honesty, but I do wish that he would back off from this mistaken position that he has taken that he serves at the pleasure of the President of the United States. He does not and under the law, if the law means anything, he must pay D.C. taxes if he lives in this city for more than 183 days a year.

So all we have been asking is that the District of Columbia Government verify the nominee's claim to the tax exemption prior to our decision to confirm him for overseas service. Even though this has not yet been done, I hope that the matter can be resolved, Mr. President. But the responsibility for the delay in consideration of this nomination has clearly been his. There has been this need for him to take action to clear up the situation and even though the Senate may confirm him today, it is still imperative for Mr. Raphel to resolve the matter.

In this connection, Mr. President, I ask unanimous consent that a study by the American Law Division of the Library of Congress on this D.C. tax matter be printed at the conclusion of my remarks. I also ask unanimous consent that an exchange of correspondence between Mr. Ed Fox, Assistant Secretary of State for Legislative Affairs, and the Senator from North Carolina be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC., March 9, 1987.

To: Senate Committee on Foreign Relations.

From: American Law Division.

Subject: Whether Career Foreign Service Officers Are "Employees" as Defined in the Revenue Code of the District of Columbia.

This memorandum responds to your inquiry regarding whether career Foreign Service Officers are exempt from the definition of "employees" in the District of Columbia Revenue Code. An employer in the District of Columbia is required to deduct and withhold an income tax on wages paid to employees. 47 D.C. Code sec. 1812.8(b) (1981). The Code, in relevant part, exempts from the definition of "employee" "any officer of the executive branch of such [United States] government whose appointment to office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States." 47 D.C. Code sec. 1801.4(24) (1986 Supp.). Officers who meet this definition are not considered "employees," and, thus, are not subject to withholding unless they are domiciled in the District of Columbia at any time during the taxable year.

If the exemption does not apply, an employee is subject to withholding of District of Columbia income tax not only if domiciled, but also if he or she has a place of abode or resides within the District at the time the tax is required to be withheld in respect to his or her employment. 47 D.C. Code sec. 1801.4(24) (1986 Supp.).

Career Foreign Service Officers are appointed by the President and are subject to confirmation by the President. 22 U.S.C. sec. 3952(a)(1). These officers, however, do not appear to serve at the pleasure of the President because they are protected by merit principles. "All personnel actions with respect to career members and career candidates in the [Foreign] Service (including applicants for career candidate appointments) shall be made in accordance with merit principles." 22 U.S.C. sec. 3905(a)(1). "Personnel actions" means "any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation." (Emphasis supplied.) 22 U.S.C. sec. 3905(a)(2).

The Foreign Service Act of 1980, 22 U.S.C. secs. 3901, et seq. (1982), gives the term "merit principles" the same meaning as does the Civil Service Reform Act of 1978, 5 U.S.C. secs. 1201, et seq. Section 3902(a) of title 22 states that as used in the Foreign Service Act, the term "'merit principles' means the principles set out in section 2301(b) of title 5, United States Code," a provision of the Civil Service Reform Act. The "merit principles" include provisions stating that "advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity," and that "employees should be retained on the basis of adequacy of their performance." 5 U.S.C. sec. 2301(b)(1) and (6) (1982).

The commitment to merit principles permeates the Foreign Service Act. The congressional findings and objectives section, for example, states that, "The Congress finds that . . . the Foreign Service should be operated on the basis of merit principles." 22 U.S.C. sec. 3901(a)(5) (1982). The objective of the Act is to strengthen and improve the Foreign Service by "assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of career status only by those who have demonstrated their fitness through successful completion of probationary assignments, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance . . . ." 22 U.S.C. sec. 3901(b)(1) (1982).

The Act charges the Secretary of State with ensuring that members of the Foreign Service receive protection according to merit principles. 22 U.S.C. sec. 3905(b) (1982). A grievance system was established in 1976 to establish procedures to hear grievances relating to a number of matters including separation. 22 C.F.R. Pt. 16 (1986). If a grievance cannot be resolved by the agency, an aggrieved party is entitled to a hearing before the Foreign Service Grievance Board. 22 C.F.R. sec. 16.12 (1986). An aggrieved party may also obtain judicial review of final actions of the agency or Board in the district courts of the United States in accordance with standards set forth in chapter 7 of title 5 of the United State Code. 22 C.F.R. sec. 16.15 (1986).

The commitment to merit principles and existence of a grievance procedure appear to suggest that career Foreign Service Officers would not be exempt from the definition of "employee" in the District of Columbia Revenue Code and, thus, would be subject to withholding of District of Columbia tax on wages. Although career Foreign Service Officers are appointed by the President and subject to confirmation by the Senate, they do not appear to serve at the pleasure of the President. The following passage, articulated in another context, highlights the distinction between a pleasure and nonpleasure appointment:

Generally, a holder of a 'pleasure appointment' may be removed without cause and without notice and hearing; 'tenure,' on the other hand, denotes relinquishment of unfettered power to terminate the employee's services, and explicit provisions or established understandings restricting the causes for removal and demanding prior notice and hearing invest the position holder with a species of tenure per se which clashes with the central characteristics of a pleasure appointment. *Zumwalt* v. *Trustees of California States Colleges,* 109 Cal. Rptr. 344, 347, 33 C.A. 3d 665, *quoted in* 32A *Words and Phrases* 67 (1981 Supp.).

THOMAS J. NICOLA,
Legislative Attorney.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, April 29, 1987.

Hon. ED FOX,
Assistant Secretary for Legislative Affairs, Department of State, Washington, DC.

DEAR MR. FOX: This is to acknowledge your letter of April 27 in which you argue that the nominee for the position of Ambassador to Pakistan is exempt from income taxes in the District of Columbia.

The law of the District of Columbia which you cite states that Presidential appointees who are subject to Senate confirmation and who serve at the pleasure of the President are exempt from income taxation if they do not maintain a domicile in this city. In 1964, the D.C. Corporation Counsel ruled that inasmuch as Foreign Service officers at that time could be removed from office under the Foreign Service Act of 1946 for any reason that the Secretary of State determined would "promote the efficiency of the Service", they could be construed to serve at the pleasure of the President.

The factual situation with regard to the Secretary's authority to remove Foreign Service officers changed greatly in the years following the 1964 ruling. All Foreign Service officers received the right to form a trade union and to be represented in official labor-management negotiations about their conditions of employment, including tenure in office. Later, in 1976, the Foreign Service received the right to formal grievance procedures in the event of separation from office and other personnel actions. These rights were then incorporated in 1980 into the Foreign Service Act of 1980 (PL-96-465), thus granting legislative protection to union and grievance rights that had heretofore been granted solely by executive order.

Since the 1980 Foreign Service Act repealed the 1946 Act, to claim tax exemption on the basis of repealed legislation is of questionable legal basis. The 1980 act grants foreign service officers the right to appeal any personnel action, including separation, to the Foreign Service Grievance Board. That Board has the right to order the reinstatement of any employee, to order that back pay be paid, or to reverse any decision denying the employee compensation or other perquisites of office. The board has the further right to order any other remedial action that has been agreed in the labor-management negotiations between the Department of State and the foreign service officers' union. The 1980 Act also specifically authorizes recourse to the courts in the event the employee does not accept the Grievance Board's decision.

Under these circumstances, it must be recognized that Mr. Raphel's statement to the District of Columbia tax authorities that he served at the pleasure of the President in a Presidential appointment confirmed by the Senate was less than fully accurate, especially after the enactment of the Foreign Service Act of 1980. The District's decision that he was tax exempt specifically stated that the decision was made "based on the information provided", and cannot be cited to exonerate a taxpayer from his lawful obligations to pay taxes if the information provided was unfactual. I am not asserting that Mr. Raphel's statements to the District were knowingly untrue, only that at best he was under an honest but mistaken belief. Nevertheless, ignorance of the law does not excuse him from the obligation to pay his taxes.

I must admit that I find it interesting that the Department of State's management is willing to argue, solely for the purpose of avoidance of legitimate taxes on District residents, that career foreign service officers serve at the pleasure of the President and can be removed from office by the President for any reason, or for no reason, when the Department has pushed so long for legislation granting foreign service officers protected tenure rights. If the Department is willing to support legislation making absolutely clear that foreign service officers serve solely "at the pleasure of the President" and to support the repeal of any provision of the Foreign Service Act of 1980 limiting the President's prerogative to remove officers without cause or explanation, I believe a resolution of this matter could be reached.

If on the other hand, the Department wishes to retain the legislative protection for career officers I believe it best to admit that the officers are not exempt from D.C. taxation. I ask you to review once again the pertinent, current legislation and to respond to this inquiry as soon as possible.

Sincerely,

JESSE HELMS.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, no name has been called yet. I ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. Now I suggest the absence of a quorum, the time equally divided.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. The question of whether a career Foreign Service officer serves at the pleasure of the President is an interesting legal question which may be the subject of many academic treatises. However, the fact remains that the taxing authorities of the District of Columbia do recognize career Foreign Service officers as holding positions which quality for the exemption from income tax as officer holding office at the pleasure of the President.

I ask unanimous consent to insert into the RECORD the various pertinent documents on this subject with respect to Mr. Raphel, including a letter from Mr. J. Edward Fox, Assistant Secretary, Legislative and Intergovernmental Affairs.

I think these documents will amply buttress the position of the District of Columbia that Mr. Raphel does not owe taxes to the District.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, April 27, 1987.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: A question has arisen regarding the District of Columbia income tax requirements in connection with the nomination of Mr. Arnold Raphel as Ambassador to Pakistan. This is to set forth our understanding of the relevant requirements.

In general, D.C. taxes persons who are not domiciliaries of the District if they nonetheless maintain "a place of abode" within the District for 183 or more days during the taxable year. However, there is an exemption for certain Congressional and other officials, including Presidential appointees subject to confirmation by the Senate "whose tenure of office is at the pleasure of the President." (Title 47, section 47-1801.4, para. 17; attached.) The Corporation Counsel of the District of Columbia has ruled

that commissioned Foreign Service officers are Presidential appointees subject to confirmation by the Senate, whose tenure is at the pleasure of the President, and that they therefore qualify for this exemption. (A copy of this ruling is attached.) This ruling is an authoritative determination by the relevant authorities.

This exemption continues to be in force. The D.C. Government has revised the applicable provision several times, including as recently as 1982, but has retained this exemption. In 1981, for example, an amendment specifically aimed at removing the exemption for Congressional and most Presidential employees was proposed, but was not adopted. We understand that the American Foreign Service Association testified at this time in favor of retaining the exemption for Foreign Service officers.

Mr. Raphel has advised the District of Columbia tax authorities of his particular circumstances, including in particular that he is a commissioned Foreign Service officer whose State of domicile is New Jersey. A District of Columbia Tax Auditor specifically reviewed his situation in 1980 and advised Mr. Raphel that he was not liable for D.C. income tax. In subsequent years, in accordance with what we understand to be usual practice, the District of Columbia has asked Mr. Raphel to complete an "Income Tax Compliance Survey" concerning this exemption and has accepted his entitlement to claim it. In short, Mr. Raphel's position has been presented to, and accepted by, the District of Columbia tax authorities. (See attached correspondence.)

Concerning this exemption generally, we would like to note that not only Foreign Service officers, but also a number of other government officials and employees similarly situated, benefit from this or similar exemptions. The District of Columbia provision applies, for example, to elected officials and certain of their staff, Supreme Court Justices, and to other Senate-confirmed Presidential appointees. Members of Congress and members of the military benefit as well from similar federal statutory exemptions, applying to District and State income taxes generally, contained in 4 U.S.C. 113 and 50 U.S.C. App. 574, respectively. Such provisions take account of the fact that such persons typically maintain a residence in the District of Columbia or a State only because they are assigned to work there, even though they are legally resident or domiciled in another State.

I hope that this answers your questions in this regard.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative and Intergovernmental Affairs.

SUBCHAPTER I. REPEAL OF PRIOR INCOME TAX LAW AND APPLICABILITY OF SUBCHAPTER; GENERAL DEFINITIONS

§ 47-1801.4. GENERAL DEFINITIONS

For the purposes of this chapter and wherever appearing herein, unless otherwise required by the context:

* * * * *

(6)(A) The words "trade or business" include the engaging in or carrying on of any trade, business, profession, vocation or calling or commercial activity in the District of Columbia, including activities in the District that benefit an affiliated entity of the taxpayer, the performance of the functions of a public office and the leasing of real or personal property in the District of Columbia by any person whether or not the property is leased directly by such person or through an agent, and whether or not such person or agent performs any services in connection with the property: Provided, however, that the words "trade or business" shall not include, for the purposes of this chapter: Sales of tangible personal property whereby title to such property passes within or without the District, by a corporation or unincorporated business which does not physically have or maintain an office, warehouse, or other place of business in the District, and which has no officer, agent, or representative having an office or other place of business in the District, during the taxable year.

* * * * *

(17) The word "resident" means every individual domiciled within the District at any time during the taxable year, and every other individual who maintains a place of abode within the District for an aggregate of 183 days or more during the taxable year, whether or not such other individual is domiciled in the District. The word "resident" shall not include any elective officer of the government of the United States or any employee on the staff of an elected official in the legislative branch of the government of the United States if such employee is a bona fide resident of the state or residence of such elected officer, or any officer of the executive branch of such government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, or any Justice of the Supreme Court of the United States unless such officers or Justices are domiciled within the District at any time during the taxable year. In determining whether an individual is a "resident", such individual's absence from the District for temporary or transitory purposes shall not be regarded as changing his domicile or place of abode.

APRIL 28, 1964.

Re Whether Foreign Service officers are excluded from the definition of the word "resident" contained in title I, section 4(s), of the District of Columbia Income and Franchise Tax Act of 1947, as amended.

Commissioners of the District of Columbia.

GENTLEMEN: You forwarded to me a memorandum from the Finance Officer, D.C., requesting an opinion as to whether Foreign Service officers, not domiciled within the District of Columbia, are excluded from the definition of the term "resident," as contained in the District of Columbia Income and Franchise Tax Act of 1947, and therefore exempt from District individual income tax.

Title I, section 4(s) of the Act, § 47-1551c(s), D.C. Code, 1961 says in pertinent part:

"* * * The word 'resident shall not include * * * any officer of the executive branch of * * * [the United States] Government whose appointment to the office held by him was by the President of the United States and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States, unless such officers are domiciled within the District on the last day of the taxable year."

Section 511 of the Foreign Service Act of 1946. 22 U.S.C.A. ¶ 906, is applicable and provides:

"The President shall appoint Foreign Service officers by and with the advice and consent of the Senate. * * *[1]

The question then becomes whether the tenure of office of such appointees is "at the pleasure of the President of the United States" within the framework of the Foreign Service Act of 1946, as amended.

Tenure "at the pleasure of" the appointing official means that removal from office may be accomplished at any time without notice, charges, or reasons. Such removal is contrasted with the removal from office for cause such as unsatisfactory performance, misconduct, or malfeasance. The power in the appointing official to remove at pleasure, if not limited by any applicable law, is implied not as punishment for the appointed officer, but to provide the necessary flexibility for the improvement of the public service. 43 Am. Jur., Public Officers, ¶ 184; McQullin, *Municipal Corporations,* ¶ ¶ 12.229, 12.249 (3d ed., 1949).

Congress presently provides for the Foreign Service of the United States in the aforementioned Foreign Service Act of 1946, 22 U.S.C.A. ¶ 810 et seq., as amended. Sections 637 and 638 of that Act, 22 U.S.C.A. ¶¶ 1007, 1008, provide for the involuntary separation from the Service of a Foreign Service officer by the Secretary of State "on account of the unsatisfactory performance of his duties, or for such other cause as will promote the efficiency of the Service." The authority of the Secretary of State is, however, restricted with respect to such removals in that an officer must be granted a hearing by the Board of Foreign Service and the unsatisfactory performance of his duties, or other cause for separation, must be established at such hearing. Nowhere in the Foreign Service Act is anything said about the power of the President of the United States to remove an officer from the Service.

The question then arises whether a Foreign Service officer is removable at the pleasure of the President when that officer is appointed by the President by and with the advice and consent of the Senate, quite evidently under the power conferred by article 7, section 2, of the Constitution, and when the statute providing for the office states nothing about removal from that office by the President. The landmark cases of *Myers* v. *United States,* 272 U.S. 62 (1926), and *Humphrey's Executor* v. *United States,* 293 U.S. 602 (1935), are applicable. These two cases considered together hold that a purely executive officer appointed by the President by and with the advice and consent of the Senate is subject to removal by the President at any time as an incident of his power to appoint any in the exercise of the executive power.

The duties of Foreign Service officers very definitely place them within the category of purely executive officers. This is especially so in light of the President's exclusive authority in the field of foreign affairs. In view of the constitutional limitations on

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[1] Although other appointees are provided for in the Foreign Service Act of 1946 as presently amended, this opinion is limited to those who are appointed by the President with consent of the Senate under that Act as it presently exists and who serve at the pleasure of the President as outlined in the succeeding portions of this opinion. See e.g., sections 501, 524, 533, 22 U.S.C.A. ¶¶ 901, 924, 938, in addition to the quoted section 511.

Congress, under the cases cited, to curtail the inherent power of the President to remove such officers, certainly no such restrictions on removal can be presumed or inferred from the Foreign Service Act of 1946 as enacted and amended by Congress, *Cf. Morgan* v. *Tennessee Valley Authority*, 115 F.2d 990 (6th Cir., 1940). This must still be so even though the legislative history of the Foreign Service Act of 1946, and its predecessors, reveal, a definite purpose to provide security of tenure and to encourage career service on a substantial basis.

* * * * *

GOVERNMENT OF
THE DISTRICT OF COLUMBIA,
Washington, DC, April 1, 1980.

Re Liability (JMT).
ARNOLD AND ROBIN L. RAPHEL,
Washington, DC.

DEAR MR. AND MRS. RAPHEL: Reference is made to your Form D-40B's, Nonresident Request for Refund or Ruling.

Before I can determine your D.C. tax liabilities, if any, I need more information. Please advise me within fifteen days of the following for each of you:

1. Your letter states that you "*presently*" hold a Presidential Commission. When did you receive the commission?

2. Your answer to question #3 states that you will return to New Jersey as soon as your appointment expires. What is the expiration date?

3. Are you an FSO or a FSOR? What grade?

4. Explain when and the circumstances of when you acquired a New Jersey domicile.

5. When were the houses on A St. and Potomac Avenue acquired.

6. Your telephone number for convenience sake. My phone is 727-6022.

When you reply, kindly use the special envelope provided.

Very truly yours,

J.M. THUR,
Tax Auditor,
Income and Sales Audit Section.

WASHINGTON, DC,
April 7, 1980.

DEPARTMENT OF FINANCE AND REVENUE,
Tax Audit and Liability Division.

DEAR MR. THUR: Thank you for your letter of April first concerning the questions of D.C. tax liabilities. The following answers are in response to the specific questions raised in your letter.

1—I received my Presidential Commission in the Fall of 1966. My wife received hers in the summer of 1977.

2—Our appointments do not have a firm expiration date. Since we serve as Presidential appointees—with Senate confirmation—the appointments do not have a fixed duration.

3—We are both FSOs. I am an FSO-3 and my wife is an FSO-6.

4—My family was originally from Upstate New York, where I was born and raised. In the mid-1960's, my mother and father moved to New Jersey and assumed permanent residence and domicile there. We changed our domicile at the same time as my parents. Not only my parents, but my only brother and his family are also domiciled in New Jersey, near my parents; the State is both our permanent Home Leave address and our permanent domicile address according to official State Department records. We are registered in New Jersey, vote in elections in the State, and fully consider it our permanent home.

5—The house on A Street was acquired in September, 1974; the house on Potomac Avenue in December, 1978.

6—My daytime telephone number is 632-9572. My wife's is 632-1448.

I would also add that we have, as required by D.C. law, filed a Form D-40B annually with the District, and have been formally notified every year that our request has been granted. During that time, the situation as to our domicile in New Jersey, our consideration of its as our permanent home, and our intention to reside there permanently have not changed.

I hope this information is useful. If we can be of any further assistance, please let us know.

Sincerely,

ARNOLD RAPHEL.

GOVERNMENT OF
THE DISTRICT OF COLUMBIA,
DEPARTMENT OF FINANCE AND REVENUE,
Washington, DC, May 5, 1980.

Re DC Tax Liability.
Arnold and Robin L. Raphel,
Washington, DC.

DEAR MR. AND MRS. RAPHEL: Based on the information submitted, you both are not liable for our income tax.

May I suggest that you not file Forms D-40B in future years, unless your situation changes or in the event you have D.C. income taxes withheld from your salaries.

If I can be of any further assistance, do not hesitate to contact me.

Very truly yours,

J.M. THUR,
Tax Auditor,
Income and Sales Audit Section.

WASHINGTON, DC,
August 29, 1984.

DEPARTMENT OF FINANCE AND REVENUE.

DEAR SIR OR MADAM: Enclosed, as you requested, is my completed notice of D.C. income tax compliance survey.

The following additional background may be useful. My Presidental appointment does not have a firm expiration date—I serve at the President's pleasure. I have been domiciled in New Jersey since the mid-1960s; my family is there, it is my permanent Home Leave address and permanent domicile address in the State Department; I am registered in New Jersey and vote there; I own property in the state and none in Washington; and fully consider New Jersey my permanent home.

In the late 70s, I annually filed a Form D-40B with the District and was formally notified every year that I was not liable for D.C. income tax. In May, 1980, I received a formal finding from the Department of Finance and Revenue that I was not liable for D.C. income tax, and that I need not file any further Forms D-40B in the future.

I hope this additional information is of use. Thank you for your consideration.

Sincerely,

ARNOLD RAPHEL.

SURVEY

Primary Social Security No.: [redacted].
Taxable Year 1984.

Federal adjusted gross income	$65,584
Less +11 exemptions.....	1,500
Less standard deduction	1,000
D.C. taxable income	63,084
D.C. tax.....	6,139
Penalty.....	1,535
Interest thru September 15, 1986	1,228

DEAR SIR OR MADAM:

NOTICE OF D.C. INCOME TAX COMPLIANCE SURVEY

The District of Columbia is conducting a survey to insure that all District residents who are required to do so, file a return and pay their D.C. income taxes. A comparison has been made of Federal and District of Columbia income tax returns filed for the above taxable year showing Washington, D.C. addresses. This comparison was conducted under authorization of Federal law (Section 6103(d) of the Internal Revenue Code), and it indicates that you filed a Federal Income Tax Return for this year but did not file a D.C. Income Tax Return.

It may be proper that you did not file a D.C. Income Tax Return for this year. Please check the filing requirements by reading the enclosed instructions carefully regarding who is required to file.

If you are required to file, you must complete and mail the enclosed tax return form with this notice and pay the tax due within twenty (20) days from the date of this notice. A self-addressed envelope is enclosed for your convenience.

If you have already filed a D.C. Income Tax Return for the above taxable year or are not required to file, we ask your assistance so that we may clear our records. Please check the appropriate blocks on the reverse side of this form and return it in the self-addressed envelope supplied. The tax programs of the District of Columbia will benefit by your cooperation.

If we do not receive a reply to this letter within 30 days from the above date, you will be assessed the above amounts under the provisions of Title 47, Section 1812.4 of the D.C. Code.

DEPARTMENT OF FINANCE AND REVENUE.

WASHINGTON, DC,
June 11, 1986.

DEPARTMENT OF FINANCE AND REVENUE,
District of Columbia,

DEAR SIR/MADAM: Enclosed, as you requested, is my completed notice of D.C. income tax compliance survey.

The following additional background may be useful. My Presidential appointment does not have a firm expiration date—I serve at the President's pleasure. I have been domiciled in New Jersey since the mid-1960s. My family is there, it is my permanent Home Leave address and permanent domicile address in the State Department. I am registered in New Jersey and vote there. I own property in the state and none in Washington and fully consider New Jersey my permanent home.

I had previously filed Forms D-40B with the District and was formally notified each year that I was not liable for D.C. income tax. In May, 1980, I received a formal finding (copy enclosed) from the Department of Finance and Revenue that I was not liable for D.C. income tax, and that I need not file any further Forms D-40B in the future.

I hope this additional information is useful. Thank you for your consideration.

Sincerely,

ARNOLD RAPHEL.

Mr. PELL. I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The hour of 11:30 having arrived, the Senate will now vote on the nomination of Arnold Lewis Raphel to be Ambassador to Pakistan.

The question is, Will the Senate advise and consent to the nomination of Arnold Lewis Raphel, of New Jersey, a career member of the senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 19, as follows:

[Rollcall Vote No. 85 Ex.]

YEAS—76

Adams	Graham	Nunn
Baucus	Harkin	Packwood
Bentsen	Hatch	Pell
Bingaman	Hatfield	Proxmire
Bond	Hecht	Pryor
Boren	Heflin	Quayle
Boschwitz	Heinz	Reid
Breaux	Hollings	Riegle
Bumpers	Inouye	Rockefeller
Burdick	Johnston	Roth
Chafee	Karnes	Sanford
Chiles	Kassebaum	Sarbanes
Cohen	Kasten	Sasser
Conrad	Kennedy	Shelby
Cranston	Kerry	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stafford
Dixon	Lugar	Stennis
Dodd	Matsunaga	Stevens
Durenberger	Melcher	Thurmond
Evans	Metzenbaum	Warner
Exon	Mikulski	Weicker
Fowler	Mitchell	Wirth
Garn	Moynihan	
Glenn	Murkowski	

NAYS—19

Armstrong	Grassley	Rudman
Byrd	Helms	Symms
D'Amato	Humphrey	Trible
Dole	McClure	Wallop
Domenici	McConnell	Wilson
Ford	Nickles	
Gramm	Pressler	

NOT VOTING—5

Biden	Cochran	McCain
Bradley	Gore	

So the nomination was confirmed.

Mr. PELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I would like to state that there will be a party conference.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, I thank the Chair and I thank the distinguished Senator from North Carolina [Mr. HELMS].

Mr. President, I am calling a party conference for the purpose of furthering discussions on this side in regard to an amendment that is being developed on the budget. I would expect the conference would last an hour or a little more. As soon as that conference is over, it will be my intention to come to the floor and ask to go back into executive session to take up the nomination of the next nominee on the Executive Calendar. That is the nominee to be Ambassador to Mozambique, Melissa Wells.

That request may be objected to, in which event I will be constrained to move to take up the nomination as a nondebatable motion. There would be a rollcall vote on that. The nomination itself is debatable.

I feel that while these discussions are going on both sides with reference to the budget resolution and amendments thereto, the Senate can be proceeding on the nomination, meanwhile utilizing the time to the very best.

Mr. President, I make these announcements so that Senators will know there will be a rollcall vote between 1 and 1:30 today.

CONGRESSIONAL BUDGET RESOLUTION—1988

The Senate continued with the consideration of the concurrent resolution.

Mr. BYRD. Mr. President, the Senate will now continue with the consideration of the concurrent resolution as the pending business. I ask unanimous consent that if there be quorum calls, the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I wonder if the distinguished Republican leader will allow me to go into recess so that the conference I am having with my party members, and possibly the consultations which may be going on, on the other side, could proceed without interruption and without Members having to be on the floor.

Mr. DOLE. If the majority leader will yield, I think if we could make certain that we did not permit the Labor Committee to meet, we would have no objection to a recess. But we would have an objection to the recess unless we can make that separate because then the Labor Committee could meet or be permitted to meet.

There is a matter before that committee which is quite controversial. We have a number of Members on our side that would be constrained to object to a recess. If we could make certain that that committee would not meet, we would have no objection.

Mr. BYRD. Mr. President, for the record, I am in a little bit of a catch-22 situation. I will not move that the Senate stand in recess. I ask unanimous consent that the Senate stand in recess for not to exceed 1 hour 15 minutes and that it be understood that there would be an objection to a meeting of the Labor Committee during that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does that effectively prevent the Labor Committee from meeting during that recess?

The PRESIDING OFFICER (Mr. CONRAD). The Senator is correct.

RECESS UNTIL 1:22 P.M.

Mr. BYRD. Mr. President, I make that request. I ask unanimous consent that the time during the recess be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 12:07, recessed until 1:22 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. LEAHY].

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO PROCEED TO EXECUTIVE SESSION

Mr. BYRD. Mr. President, in accordance with my earlier indications that I would go to the nomination of Melissa Wells, to be Ambassador to the People's Republic of Mozambique, I ask unanimous consent that the Senate proceed to go into executive session to consider the nomination of Melissa Foelsch Wells.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. President, the motion I am about to make is a nondebatable motion. There will be a rollcall vote on it. Once the Senate is on the nomination, if indeed it goes to the nomination, that nomination will be debatable. In order that Senators may get this vote over with—several of them have plane reservations and committee meetings and various other engagements—I now move to proceed to executive session to take up the nomination of Melissa Wells.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. GRAHAM] and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. DOLE. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Delaware [Mr. ROTH], the Senator from Wyoming [Mr. SIMPSON] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 28, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—56

Adams	Ford	Mitchell
Baucus	Fowler	Moynihan
Bond	Glenn	Nunn
Breaux	Harkin	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Byrd	Hollings	Reid
Chafee	Inouye	Riegle
Chiles	Johnston	Sanford
Cohen	Kennedy	Sarbanes
Conrad	Kerry	Sasser
Cranston	Lautenberg	Shelby
Daschle	Leahy	Simon
DeConcini	Levin	Specter
Dixon	Lugar	Stafford
Domenici	Matsunaga	Stennis
Durenberger	Melcher	Weicker
Evans	Metzenbaum	Wirth
Exon	Mikulski	

NAYS—28

Armstrong	Heflin	Quayle
Boren	Helms	Rudman
Boschwitz	Humphrey	Stevens
D'Amato	Karnes	Symms
Dole	Kasten	Thurmond
Garn	McClure	Trible
Gramm	McConnell	Warner
Grassley	Murkowski	Wilson
Hatch	Pressler	
Hecht	Pryor	

NOT VOTING—16

Bentsen	Dodd	Rockefeller
Biden	Gore	Roth
Bingaman	Graham	Simpson
Bradley	Kassebaum	Wallop
Cochran	McCain	
Danforth	Nickles	

So the motion was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. HELMS. I am delighted to yield to my friend.

Mr. BYRD. Mr. President, the Senator from Arkansas [Mr. PRYOR] wishes to handle a matter as if in legislative session. Would the distinguished Senator from North Carolina mind if we made arrangements for Senators to speak as in legislative session if they wish to do so?

Mr. HELMS. Not only would I not; I would be delighted to do so.

Mr. BYRD. I thank the distinguished Senator from North Carolina. Mr. President, I ask unanimous consent that even though the Senate is in executive session, Senators may speak out of order as if in legislative session, for not to exceed 5 minutes each, and that they may be permitted to introduce bills and resolutions as if in morning business, with the understanding that the record show a separation of the two actions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS—S. 604

Mr. PRYOR. Mr. President, recently, I introduced S. 604, known as the taxpayers' bill of rights. At that time, the sponsors were Senators GRASSLEY, REID, SYMMS, MELCHER, COCHRAN, MCCLURE, NICKLES, WALLOP, BREAUX, STEVENS, LEVIN, and SIMON.

Today, I ask unanimous consent that the names of the following Senators be added as cosponsors of S. 604, the taxpayers' bill of rights: the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. HEFLIN], the Senator from Alabama [Mr. SHELBY], and the Senator from North Dakota [Mr. BURDICK].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSOR—SENATE JOINT RESOLUTION 120

Mr. SYMMS. Mr. President, yesterday, I introduced a joint resolution dealing with having the President exercise the authority he has under current law to close the Soviet chancery here in Washington, DC.

I ask unanimous consent that the name of the distinguished junior Senator from North Dakota [Mr. CONRAD] be added as a cosponsor of Senate Joint Resolution 120 along with myself and Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MELISSA FOELSCH WELLS TO BE AMBASSADOR TO MOZAMBIQUE

Mr. PELL. I am glad to support the nomination of Ms. Wells. In fact, I have known her for almost 30 years. I used to be a Foreign Service officer myself. Ms. Wells has always had an excellent reputation. She is a very competent woman, a career officer, and, really, one of the stars of the Foreign Service who has done very well. She has served as the U.S. Ambassador to Guinea-Bissau and Cape Verde and the U.S. Representative to the United Nations Economic and Social Council. Since 1979 she has been on loan to the United Nations Development Program. She was UNDP's first permanent representative in Uganda and director of IMPACT, a worldwide UNDP Program.

The Foreign Relations Committee approved Ms. Wells' nomination on March 31 by a 16-to-3 vote. Her outgoing personality as well as her experience in Africa make her an excellent candidate for the job of U.S. Ambassador to Mozambique. I am confident that she will undertake her responsibilities with enthusiasm and professionalism. I hope that my colleagues will approve her nomination.

I would add that, in my view, the more we disapprove of a nation and the worse our relations are with a nation, the more important it is that we have a top-ranking diplomat there keeping the channel of communication

open. It does not matter if the nation is right wing or left wing.

I really feel that it was a mistake to withdraw our Embassy's Ambassador to Spain under Franco. Though I disapproved of Franco, I felt it was very important to maintain a communication. Of course, our relations with Mozambique are a somewhat different case. In the last few years, our relations with Mozambique have improved, as Mozambique has begun to take some important steps to move away from the Soviet Union. I, for one, would like to see ambassadors to all the countries with which we disagree, and a great example of that would be Cuba.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SYMMS. Mr. President, I take the floor today regarding the nomination of Melissa Wells to be Ambassador to the People's Republic of Mozambique.

I compliment the distinguished ranking member of the Foreign Relations Committee. He has made available to Senators, information concerning the Wells nomination, including a "Dear Colleague" letter I urge all Senators to read.

Mr. President, I think this nomination represents a continuation of the State Department's failed policies to wean away Marxists-Leninist regimes from the arms of the Soviet Union.

It appears that we not only have the Communists to contend with in Africa, but, we must constantly battle within our State Department to decide what side they are on in that country.

At the confirmation hearings, in response to questions from my distinguished colleague from North Carolina concerning the present conflict in Mozambique and the effect the civil war is having on Mozambique, Ms. Wells said that:

> Renamo, has not demonstrated a capacity to take, hold and govern territory. Renamo is politically fragmented, it has no political program and has not shown evidence of a structure—other than military—that could be called a permanent presence in the country.

Mr. President, this opinion of Ms. Wells, which is supported by the State Department, is void of credibility in light of numerous reports on the situation in Mozambique. For example, a July 12, 1986 article in Jane's Defense Weekly states:

> With the Civil War in the former Portuguese colony of Mozambique in its ninth year, the anti-Communist rebels are operating in all parts of the country. More importantly, they seem to be winning over the local population.

I will also read a few lines from "Jane's Defense Weekly," which is a prestigious military publication. A former member of my staff has been in Mozambique and has reported on this to me directly. To the best of my knowledge, this is an accurate summation of what is happening in Mozambique.

> Renamo has developed considerable credibility, despite being unable to enjoy foreign support—unlike the government whose policies it opposes.
>
> The armed struggle began in 1977 under Rhodesian Intelligence control.
>
> Later there was support from South Africa, but this disappeared with the 1984 agreement between Pretoria and the Maputo government.
>
> Despite the loss of outside assistance, the insurgency is growing in strength—possibly because of the Mozambique Government's policy of imposing collectivisation.
>
> Herding the rural populace into *aldeas* (communal villages) has alienated peasants and created opposition in areas which were previously compliant.
>
> * * * * *
>
> During our five-week journey in different parts of the country, we witnessed the same. Everywhere Renamo has a network of support bases, the locations of which are well known to the people, to the extent that the commander of our escort normally asked local civilians to guide our party to the camp in their area.
>
> After gaining control of much of the countryside, the insurgents are able to capture and hold towns up to provincial capital level.

Mr. President, I ask unanimous consent that this article be printed in the RECORD. It is written by Almerigo Grilz, who has visited the country and reports on the struggle of Renamo, the Mozambique national resistance. There is no question but that Renamo is an indigenous popular force in Mozambique. These are the people the United States of America should be supporting.

Mr. President, I also ask unanimous consent that the "Dear Colleague" letter from Senator HELMS and the two attachments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REBELS OF MOZAMBIQUE

(With the civil war in the former Portuguese colony of Mozambique in its ninth year, the anti-Communist rebels are operating in all parts of the country.

(More importantly, they seem to be winning over the local population.

(*Almerigo Grilz* has visited the country and reports on the struggle of Renamo, the Mozambique National Resistance.)

Renamo has developed considerable credibility, despite being unable to enjoy foreign support—unlike the government whose policies it opposes.

The armed struggle began in 1977 under Rhodesian Intelligence control.

Later there was support from South Africa, but this disappeared with the 1984 agreement between Pretoria and the Maputo government.

Despite the loss of outside assistance, the insurgency is growing in strength—possibly because of the Mozambique Government's policy of imposing collectivisation.

Herding the rural populace into *aldeas* (communal villages) has alienated peasants and created opposition in areas which were previously compliant.

The people appear to prefer to live in the resistance's 'liberated areas', where they have their own fields and can grow crops as they wish.

Three nuns, who had been prisoners of the rebels and travelled extensively with them in Nampula, Niasa and Zambesia privinces, told *JDW* they crossed vast areas where the rebels apparantly enjoy total control, getting food and help from the farmers.

SUPPORT BASES

During our five-week journey in different parts of the country, we witnessed the same. Everywhere Renamo has a network of support bases, the locations of which are well known to the people, to the extent that the commander of our escort normally asked local civilians to guide our party to the camp in their area.

After gaining control of much of the countryside, the insurgents are able to capture and hold towns up to provincial capital level.

Fifteen towns were overrun by Renamo in 1985 (nine are still in their hands), and 10 have been taken this year so far.

Most of the towns are abandoned, but in some cases the rebels are beginning to keep contingents inside the urban perimeter, with 14.5 mm guns giving protection against air strikes.

Renamo has put nearly 2,000 men into regular battalions, four of which are active while the rest are undergoing training. These battalions are intended to be able to manage semi-conventional warfare and to attack towns.

There is much room for improvement: coordination during operations is often nonexistent and hampered by the lack of tactical communication equipment.

Troops' ability to manoeuvre in the field is questionable. Officers have no knowledge of map reading, nor maps or compasses. It is not unusual to be without watches.

Plans are rarely more than a simple, daring headlong assault to dislodge enemy forces.

In spite of all this, the rebels usually succeed. Their confidence is unshakeable.

"When we attack, the enemy usually runs away after a few minutes," said Bob Chalton, one of the most spirited Renamo commanders.

When he led 300 men against Inhaminga (a district capital in Sofala province, already occupied last year by the rebels), the government troops managed to resist, pinning the attackers down under a hail of sustained small arms and mortar fire. Yet they were unable to defend the town itself: when the guerrillas swarmed into Inhaminga they retreated to their barracks outside the town.

The rebels besieged the garrison, undeterred by repeated air raids by MiG-17 and Mi-8 helicopters, which tried for several days to dislodge them.

The regular battalions are active in central Mozambique, between the Zambesi and Save rivers, but "Renamo will mainly maintain guerrilla tactics, as we lack training and equipment for large operations", said rebel leader Afonso Dhlakama, 33, whom we interviewed in his HQ at Gorongosa.

"We need to maintain pressure all over the country, launching a lot of small-scale attacks to force the enemy to disperse his forces."

Renamo has been extremely effective against the country's economical infrastruc-

ture: factories are burned down, electricity plants are destroyed, routes and goods distribution systems are paralysed virtually everywhere.

Only the corridor from Beira to Zimbabwe is open, because the Zimbabwean Army is directly involved in protecting it, with positions and constant patrolling along the railway and the pipeline.

One of the main efforts of the insurgents is to discourage foreign companies from investing in Mozambique. Western companies are also blamed for propping up the Marxist regime.

Technicians and workers (called cooperantes) from different countries have been kidnapped and installations are put to the torch.

The smallest structure of Renamo guerrilla forces is the section, of about 10 men; 30 men may form an operational group; a zonal group will then include three sections with nurse, radio operator and 'artillerymen' with heavier weapons.

Bigger structures are sectors, military regions and provincial commands. The provincial commanders are in daily radio contact with the Gorongosa headquarters, and transmit news about the situation, always in code.

The logistical system is simplified and everything is based on self-reliance.

Apparently, Renamo has to rely on what it is able to capture from the enemy, and hasn't a central logistical base.

The logisticians responsible only receive knowledge of how much material has been seized and where it has been stored.

Renamo is probably the most 'ragtag' army in the world: soldiers wear a mixture of civilian clothing and captured uniforms, generally worn out and falling apart.

No badges or other identifications are used. Webbing and packs are largely handmade with different materials and in a variety of colours. Everything is used until it disintegrates.

Weapons are almost totally Eastern bloc made: Soviet, Chinese and Romanian AK-47s, Czech VZ 58s, RPD and PKM machine guns, venerable PPSh and SKS carbines.

The weapons are mostly worn out as well. Many assault rifles are rusty (cleaning oil is a rarity), with butts broken or missing.

Ammunition is not to be wasted. We saw several soldiers with empty magazines in their makeshift webbing.

The rebels use RPG-7s, too. Their heavy weapons armoury includes 82 mm B-10 recoilless rifles, 60 and 82 mm mortars and 122 mm Grad-P (B-11) rockets. They move their artillery in parts. Men carry incredibly heavy loads on their heads.

Anti-aircraft guns are crucial, because Frelimo's (the ruling Marxist-Leninist party, which kept the name of the liberation movement created against the Portuguese) armed forces confine their offensive tactics almost exclusively to air strikes.

When a garrison is stormed it won't dare to counterattack, but it will certainly call for air support.

Anti-aircraft commander Lazaro Stewart, 39, said that during one battle, in Morrumeu last January, six 14.5 mm guns fell intact into Renamo hands.

We also saw some 120 mm M-1943 mortars and 76 mm guns captured during Renamo's counteroffensive in Gorongosa Cavalo area earlier this year.

The rebels' communication system is based on Syncal 30 radios, and Mortley Sprague hand-generators. Much of this equipment was probably supplied during the period of Rhodesian and South African support, although Renamo claims to have captured a lot of them from the Zimbabweans, alongside several Racal T-48s.

In January, Renamo formed its special forces: 200 men, trained to operate in three-man teams and scattered around the country.

Latest estimates establish Frelimo's manpower as 51,000 men, including the brigadas of the FPLM (Popular Forces for the Liberation of Mozambique, the regular army) and the 'local forces'.

The latter, under the provincial commanders, are locally raised and trained, while the FPLM operates directly from the Maputo headquarters.

Beside, there are a lot of popular militia auxiliaries, organised on factory communal villages.

Sources and evidence describe the Frelimo troops as demoralised, unskilled, and unable to stop the rise of the resistance. The guerrillas have a much higher morale, and they generally feel they are winning.

In order to achieve some effectiveness on part of the FPLM, Mozambican officers have been sent to Inyanga (Zimbabwe) for counterguerrilla training. According to Renamo sources, 48 of them have returned, while nearly 200 have just started a new course.

FOREIGN INTERVENTION

Renamo claims that without foreign intervention it would already have overthrown the Frelimo government. It is the Zimbabwean Army which gives the government the most crucial contribution, with a floating number of troops, possibly 15-20,000.

The resistance says the 25,000 Zimbabwean soldiers are currently inside Mozambique, but the forces permanently based there are reported by other sources to be nearer 8000.

More units are brought in for big operations along the Beira corridor. Zimbabwean forces are reportedly deployed along the Vinduzi/Tete road, in border areas in Manica province and inside several towns.

Disagreements between Zimbabwean and FPLM officers are said to be frequent, as the latter resent the Zimbabwean Army's general independence, and little consideration for its allies.

There are Tanzanian troops as well, with compact units, including engineers, in the northern provinces, and instructors. The new Tanzanian president confirmed during a recent official visit to Maputo that the help of his country for the Frelimo government will continue.

An undisclosed number of Soviet, Cuban East German and North Korean advisors and specialists are committed to help the government efforts to survive.

The Frelimo leader Samora Machel asked for more support from the USSR during his trip to Moscow on the 9th anniversary of the 20-year friendship and co-operation treaty signed by the two governments in 1977. He was reportedly given assurance that more weapons and equipment will be supplied.

On the contrary, it is extremely unlikely that the Renamo, little-known to western public opinion and internationally isolated, will have the chance of receiving any significant foreign support.

In spite of this, the resistance will keep growing. As long as the population starves and is forcibly gathered into communal villages, it will go on supporting the rebels.

The only way to end the stalemate, Renamo claims, is to find a political solution, based on the "establishment of a pluralistic system". But Frelimo considers the guerrillas "armed bandits" and dismisses and possibility of negotiating with them.

"Well intensify our attacks," said Renamo's Afonso Dhlakama, "until Samora Machel is forced to give up".

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, May 1, 1987.

DEAR COLLEAGUE: On March 18, the Foreign Relations Committee conducted a brief hearing on the nomination of Melissa Foelsch Wells, of New York to be Ambassador to the People's Republic of Mozambique.

The dominant themes of Wells' written responses reflect the ruling Marxist Frelimo party line. For example, in her answers about Renamo, Mozambique's pro Western, democratic anti-communist insurgents Wells maintains that: a) they are terrorists who can only control territory by Red Brigade type tactics and, b) Renamo "has not demonstrated a capacity to take, hold and govern territory."

Peter Godwin, a journalist for The Sunday Times of London quoted a Zimbabwean sergeant (one of the 16,000 Zimbabwean troops propping up the Marxist Frelimo regime): "All behind us in Renamo, as far as we are concerned they have won this war. All that is left is for them to announce it. These Renamo are good. They control the countryside. The local people support them." (Please see enclosure).

The fact that Frelimo needs 19,500 foreign troops and military and advisors to remain in power makes Wells' position on Renamo tenuous, at best.

There are 16,000 Zimbabwean troops, and 2,000 Tanzanian 1,500 Soviet advisors, East German advisors, and Cuban advisors waging war against the Mozambican people and these "Red Brigade" terrorists, as Wells refers to them, who, in her words have no "capacity to take, hold and govern territory."

To allow Wells to become Ambassador to Mozambique would be to (1) allow an individual who is eager to believe and propound the Marxist-Leninist Frelimo party line, (2) severely compromise any U.S. effort to achieve a democratic solution to the civil war in Mozambique through negotiations which include Renamo, and (3) subvert any chance for U.S. interests to be vigorously represented in Mozambique.

This must be a pro forma nomination.

For more information on the Wells nomination, please contact Claude Allen or Dan Perrin at 43941.

Sincerely,

JESSE HELMS.

FACTSHEET

Renamo Military Strength:

A Heritage Foundation Backgrounder, released March 31, 1987, reports that RENAMO has 22,000 insurgents under arms, who "now control 80 percent of the countryside."

A July 12, 1986 Jane's Defense Weekly report cites three nuns, "who had been prisoners of the rebels and travelled extensively with them in Nampula, Niassa, and Zambesia provinces." These provinces make up more than a third of Mozambique's land mass.

The nuns told Jane's Defense Weekly that they "crossed vast areas where the rebels apparently enjoy total control getting food

and help from the farmers." Jane's defense weekly staff, after a five week journey through different parts of the country, witnessed the same. They reported that RENAMO "is growing in strength—possibly because of the Mozambique Government's policy of imposing collectivization." Additionally, the report states that FRELIMO's policy of "herding the rural populace in aldeas (communal villages) has alienated peasants and created opposition in Areas which were previously compliant. The people appear to prefer to live in RENAMO's liberated areas where they can grow crops as they wish."

Wells' Political Views of Frelimo:

Wells attempts to deflect charges that Mozambique is a Marxist. Leninist regime by stating that: " . . . classic Marxist-Leninism calls for dictatorship of the proletariate, the latter—for all practical purposes—being nonexistent in Mozambique."

Wells lauds "political liberalization' in Mozambique, saying it "is evident in the conduct of the 1986 elections, in which there were 20 per cent more candidates than seats available, thus affording voters a measure of choice and a chance to express their views."

Wells admits: "[t]he elections were held within the Framework of the country's one party constitution." One state controlled party, one state controlled press, one state controlled result.

International Press:

FBIS reports that on Mozamabique's Hero's Day, Mozambique's President Jouquin Chissano, stated on public radio: "Some may think that because we are having negotiations with Western institutions, that we are having doubts about the socialist option. That is not the case. We choose socialism and combined it with the scientific teachings of Marxism-Leninism."

The Portuguese national news agency, ANOP, reported that on November 26, 1986, FRELIMO's Minister of the Interior, Manuel Antonio, personally presided over the torture and burning at the stake of seven people suspected of being RENAMO members, in Mozambique's capital, Maputo.

RENAMO'S HARD MEN RULE OVER THE BUSH

Early this morning guerrillas from the Mozambique rebel army, Renamo, plan to attack the Zimbabwean soldiers based at the Mozambican town of Villa Nova. Leading the attack will be a Renamo commander, "Sharp Eyes" Ngere. Pitted against him will be Lieutenant Dube and his troops from a training battalion of the Zimbabwe Military Academy.

Though it will be little more than a skirmish, from what I have seen the Renamo guerrillas are sure to win it. Contrary to the general view in Western capitals, the rebels are gaining ground and are full of confidence. The motley forces from neighbouring states sent to help Mozambique crush them are losing the battle. Zimbabwe has a 12,000-strong task force in Mozambique, mainly to guard the vital trade route to the port of Beira. But the troops show little enthusiasm.

Last week I met the commanders and men on both sides. For a day I was held prisoner by Renamo guerrillas in the mountains between Malawi and Mozambique, overlooking the Zambezi River. I was forced to sit for hours in a bush clearing with a pistol at my head while they debated my fate.

I had driven for five hours from Blantyre to the southern tip of Malawi to check claims that there are Renamo bases in the area, as Zimbabwe and Mozambique have alleged.

At a simple Malawi store I met Ngere, who was buying cigarettes. He had a French pistol strapped to his side and wasted no time on pleasantries. I was marched for miles through the thick bush on the Mozambique side. In the middle of a maize field I suddenly heard the cocking of rifles and guerrillas pointing Soviet Kalashnikovs emerged to surround me.

At their camp I was searched and Ngere interrogated me at gunpoint for several hours in broken English and in the Chindau dialect. Finally, accepting that I was a journalist. Ngere, 30, told me he is a former Frelimo soldier who has turned against the Mozambique government because of its marxist policy of collectivisation. From his base we could see across the vast Zambezi valley. All this territory, he told me, is in Renamo hands.

Inside his hut, a green parachute served as a mosquito net. The Zimbabwean soldier who had used it was dead by the time he hit the ground, said Ngere. "Zimbabwe soldiers . . . they are women," he scoffed. "This Sunday at 4 am we will drive them out of Villa Nova and capture all their supplies. We have planned this attack for some time. It has been ordered by our headquarters." Renamo wants only to loot Villa Nova, he claimed.

Renamo has no bases in Malawi because it does not need them, Ngere told me. But, the lieutenant said, "We buy things at the stalls in Malawi. We loot the Zimbabweans of clothes, batteries, radios and tins of food which we sell to the Malawians."

All military supplies come from looting enemy soldiers and not from South Africa, he claimed. Their weapons looked old and battered. He and his men wore tattered remnants of Frelimo uniforms. Many were barefoot.

According to Ngere, the Zimbabweans bear the brunt of the fighting in the north, and little is seen of Frelimo. But the Zimbabweans mostly stay in their bases, he says. "They have no stomach for this fight." Ngere has also encountered Nigerian, Tanzanian and Zambian troops who have been identified from documents on their corpses.

Ten miles back down the road, at the Malawi railway station of Maraka, a dozen Zimbabwean soliders were in a small shop, taking a break from humping drums of water on to a trolley to be pushed along the rusty track over the border to Villa Nova. The railway is one of Malawi's two outlets to the sea.

Villa Nova is a charred shell, with the Zimbabwe garrison its only occupants. It has no power, no water and is cut off from the rest of Mozambique. "All behind us," said the Zimbabwean sergeant with a sweep of his arm, "is Renamo. As far as we're concerned they have already won this war. All that is left is for them to announce it. These Renamo are good. They control the countryside. The local people support them."

The Zimbabweans appear to be tough, well-equipped, professional soldiers. But their morale is flagging. "We are not paid bush allowance or danger money," complained one. "We are very far from home. Why should we be killed in someone else's war? First we were told just to guard the pipeline. Now we seem to be fighting the whole war." I walked along the railway track into Mozambique with the Zimbabwean soldiers. At the border they collected their weapons and called their commander, Lieutenant Dube. A small, nervous-looking man armed with a Kalashnikov similar to Ngere's. Dube was confident they could handle any attack.

The Malawians at Maraka are seasoned observers of the war in the valley. I asked them what they thought of the impending battle. Although the Zimbabweans look more impressive, a businessman told me, "They are not strong in their hearts." Often at night, he said, they sneak over the border to sleep on the Malawian side, for fear of being ambushed in Mozambique.

As I left, thankful to be alive, the Zimbabwean soldiers looked enviously across at the peaceful domestic scene on the Malawi side.

Mr. HUMPHREY. Mr. President, it is always a source of amazement to this Senator how many in the State Department will fall for the line that you can moderate a Communist regime. That, of course, is the current State Department line and I am sorry to say the administration line with respect to Mozambique.

Mr. President, it is especially unfortunate when the State Department and the administration pursue this self-delusion when there is in a country to which this delusion is being applied, namely, Mozambique in this case, an insurgency which has a real prospect of toppling a Communist government.

How ironic that the United States of America, which came into being through armed rebellion and the success of whose revolution would probably not have been realized without the help of a foreign power, namely that of France. So when we choose sides in these struggles, pitting Communist regime on the one hand against an insurgency which seeks to bring democracy to that country, we ought to side naturally with those who are trying to overthrow the Communists. But with whom are we siding in this case? The Communists.

It is certainly inconsistent with our own history, but then it is not inconsistent with the confused thinking which historically comes from the State Department.

Mr. President, It was 10 years ago that the People's Republic of Mozambique so-called, formalized its ties to the Soviet Union by signing a Treaty of Friendship and Cooperation with Moscow. Since that time, the Marxist-Leninist Frelimo regime which rules Mozambique has depended on Soviet bloc military assistance to remain in power.

To put it plainly, without this Soviet assistance, these Communist bums would have been thrown out of office long ago. Since 1977, for example, Mozambique has imported over $1 billion worth of Soviet arms; Maputo currently houses an estimated 3,500 Soviet, Cuban, East German military and security advisers. In return, the Soviets have reaped many benefits: Access to naval facilities on the Indian Ocean, support for selected Soviet-backed in-

surgencies, and access to Mozambique's plentiful natural resources.

But Moscow does not provide Mozambique's Communist regime with much economic assistance. Following the imposition of Marxist economic policies in the late 1970's, the Mozambican economy, surprisingly, went into a tailspin. By 1980, the situation was so bad that Mozambican strongman at that time Samora Machel asked the Soviets for help: he applied for membership in the Council for Mutual Economic Assistance [COMECON], the Soviet-bloc economic organization. Moscow, either unable or unwilling to assume the economic burden of another of its ailing Third World clients, refused membership.

Enter the United States, in the person of Dr. Chester A. Crocker, Assistant Secretary of State for African Affairs. Dr. Crocker believed Mozambique's rejection by COMECON gave the United States an opportunity to wean away Machel from the Soviet bloc. Moscow, after all, simply could not afford the major economic assistance necessary to maintain all its Third World clients; perhaps if the United States were to step in and fill the breach, then those Third World regimes would look more favorably upon the United States. Mozambique seemed to offer the perfect test case for Dr. Crocker's hypothesis.

Accordingly, he opened a channel to Machel and offered United States economic assistance in return for economic reforms in Mozambique. At the fourth Frelimo Party Congress in 1983, Dr. Crocker got what he wanted: Frelimo admitted the shortcomings inherent in the application of some of its socialist policies. Private farming, for instance, was encouraged, and some pricing mechanisms were liberalized.

For this Machel was rewarded handsomely by the State Department. U.S. assistance, which in 1982 had totaled $600,000, skyrocketed up to $9.7 million in 1983, and $18.3 million in 1984. Along with the economic support came political and diplomatic support from the United States. In March 1984—after much prodding of both sides by Dr. Crocker and his deputies—Mozambique signed the Nkomati accord with South Africa, in which each party pledged not to support insurgents operating against the other. Moscow, which had not been a party to the negotiations, could do nothing as one of its favorite "national liberation movements," the African National Congress, was told to pack up and leave Maputo. It appeared that United States influence was increasing and Soviet influence decreasing.

Dr. Crocker continued the payoffs to Machel. United States assistance to Mozambique for 1985 again was doubled, to $38.8 million. And again I make the point to a Socialist-Marxist-Communist regime for these U.S. dollars flowing in ever increasing amounts thanks to our fuzzy-minded friends at the State Department. Dr. Crocker's campaign to woo Mozambique peaked in September 1985, when Machel visited Washington. He met in the White House with President Reagan.

Interesting, is it not, that even in this White House the leader of a Communist country can easily get an appointment, but try to get an appointment for the leader of the freedom fighters who are trying to topple this Communist regime, it is quite a different story even in this administration.

He met in the White House with President Reagan who, reading from a State Department script, called Machel "amigo."

Machel died in a plane crash last October, 13 months to the day after meeting with Reagan. His replacement, former Foreign Minister Joaquim Chissano, was chosen by the Frelimo Central Committee primarily because he was the candidate believed most likely to assure the continued flow of Western assistance to Mozambique. His selection was greeted with relief at the State Department, which had worried that the selection of virtually any other candidate would have meant the end of the so-called weaning campaign.

After such a long and intense courtship, one would expect a great deal of movement on Mozambique's part—away from Moscow and toward Washington. But has that movement actually taken place?

In fact, no. Machel stayed close to the Soviets right up until the day of his death. In March 1986, just 6 months after meeting with Reagan, he visited Moscow and asked for more arms.

He gets money from the United States and weapons from the Soviet Union. That is called playing both sides against the middle, I suppose.

In July the Kremlin gave him a new arms agreement, which for the first time would provide him with MIG-23 jets and T-62 tanks. Just a month before his death Machel visited northern Mozambique with two Soviet and three Cuban military advisers, to plan a new strategy for dealing with anti-Communist insurgents. And according to documents found in the debris of his aircraft, Machel had been plotting with Soviet and Cuban assistance to overthrow the government of neighboring pro-Western Malawi.

Following Machel's death, the Soviets sent a new 100-man contingent of military advisers to shore up the Frelimo regime against the insurgents. The Soviet deputy defense minister and commander of the Red army ground forces was sent to Machel's funeral to demonstrate publicly Moscow's commitment to Frelimo's defense. The arms deliveries agreed upon in July were speeded up. Earlier in March, delegations from the Soviet Union, East Germany, and North Korea were all in Maputo simultaneously, negotiating increased support levels for Mozambique.

What, then, is the explanation? Was there a turn to the West or wasn't there? The answer lies in one's definition of "turn to the West." If by that one means a lessening of the regime's commitment to Marxism, perhaps, there was somewhat of a turn. But if one means a lessening of the regime's commitment to Leninism, no, there clearly was not a turn. Which begs the question—which is more important, for United States purposes: a turn away from Marxism on the part of a Third World Soviet client, or a turn away from Leninism?

Clearly, the turn from Leninism is what matters. After all, why should the United States desire in Mozambique a lean, economically efficient Communist regime, instead of a bloated, corrupt, inefficient—that is, typical—Communist regime? In fact, it is a misnomer to refer to a score of Third World Communist leaders as Marxists. These leaders—Somora Machel and Joaquim Chissano foremost among them—care not nearly so much about how to organize their national economies as they do about how to achieve and maintain political power. Thus, their attraction to Communist ideology is not to Marxism—which has been demonstrated conclusively to be disastrous in every country which has applied it—but to Leninism, which offers them a guaranteed method of seizing and keeping power. Their attraction to the Soviets and Cubans is an attraction to regimes which do not bother to ask meddlesome questions about human rights and democratic practices, but which offer the means to stay in power in return for certain rights.

In fact, Moscow's reported anger at Machel for the turn may have been a put-on for Western consumption. It is quite possible that the recent experience in Mozambique represents not just an experiment on the part of the West, but an experiment for the Soviets, too. It could represent a new Soviet strategy for the Third World: Use whatever means are necessary and appropriate to establish Communist regimes in the Third World, then allow them to accept Western economic assistance. This tactic serves at least three purposes: It releases Moscow from the economic burden of having to support its burgeoning Third World empire; it seduces the West into spending its own scarce resources in the elusive search for a Soviet client that can be weaned away; and it bails out Soviet clients which would other-

wise fall because of ruinous economic policies.

Clearly, the turn to the West is a phony turn. Mozambique's willingness to accept massive amounts of Western economic assistance in no way signals any lessening of its commitment to Leninism and the Soviet bloc. And as long as Leninism flourishes in Mozambique, nothing fundamental has changed.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, thank you for recognizing me.

I pay my respect to the distinguished Senator from New Hampshire. He has put his finger precisely on the point as did the able Senator from Idaho who preceded Senator HUMPHREY in his remarks.

Mr. HUMPHREY. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I certainly will, with pleasure.

Mr. HUMPHREY. This nominee is an exponent of the theory that somehow if you pay enough money to a Communist regime, the Communist will not only like you but embrace democracy and human and civil rights, a theory that has been tried many times but has never yet worked.

This is the debate over the confirmation of the nominee. I ask the Senator from North Carolina, the ranking member of the Foreign Relations Committee, is there any money in the 1988 foreign assistance bill for Mozambique?

Mr. HELMS. I will say to the Senator I have to check to be sure but I think I am correct in saying that aid to Mozambique is proposed only under the multilateral assistance of the SADCC proposal.

Mr. PELL. That is correct.

Mr. HELMS. That is my understanding.

Mr. President, Senator HUMPHREY has said that the theory to which he just alluded made no sense. It does not even make good nonsense as far as I am concerned and I thank him for his excellent comments.

Mr. President, in consultation with the distinguished majority leader and the distinguished minority leader earlier, it was established that there would be no more rollcall votes today, which means that there will be, of course, no action on this nomination today. And I must candidly acknowledge that I hope that there will be no action on this nomination period.

As Senator SYMMS has indicated, there is nothing personal against Ms. Wells. It is simply a matter of the best interests of the United States and how it will be served by our diplomatic representatives around the world.

The parliamentary situation is that, with so many Senators gone, we probably would not have a quorum if a live quorum were called. And the only way you can get a live quorum test would be by instructing the Sergeant at Arms to request the attendance of the absent Senators. And, of course, nobody is going to do that. So what we plan to do is to have such opening statements as Senators may wish to make and then we will let the distinguished Presiding Officer and the Parliamentarian and the other splendid officials of the Senate—and, I might add, pages—begin their weekend.

If we are doing that, however, I would offer a few comments, mainly for the purposes of the record.

On March 18, the Senate Committee on Foreign Relations conducted a hearing on the nomination of Ms. Melissa Wells, of New York, to be Ambassador to the People's Republic of Mozambique. It so happens that I was unable to attend the hearing because of deliberations on the Contra aid moratorium on the Senate floor.

However, as is the custom in the Foreign Relations Committee, I submitted questions in writing to be answered by Ms. Wells. The questions I submitted for Ms. Wells' response focus primarily on Mozambique, but I also solicited her response on regional questions since constructive engagement is, as Assistant Secretary of State for African Affairs, Chester Crocker asserts, a regional policy. Inasmuch as Ms. Wells' responses may be presumed to underscore the State Department view of the situation in Mozambique, and United States toward Mozambique, my concerns about the course the State Department is charting to wean away the Marxist-Leninist Frelimo government from the Soviet Union have deepened. I am more worried than I ever was. The pattern of our policy in Mozambique—if it can be called a policy—is a pattern of failure repeated by the State Department in its attempts to cajole Soviet-client states—and by that I mean allies of the Soviet Union—to cajole these states, these governments, using, of all things, the tax dollars of the American people.

Now, Mr. President, this sort of thing must stop. It has gone on far too long. And I think the American people are properly resentful of their money being used in such a way, particularly when it is such an abject failure in terms of foreign policy.

But as I say, I filed written questions with Ms. Wells, and she responded. Her responses reflect the typically evasive and indirect manner in which the State Department perpetually, consistently, constantly deals with congressional inquiries.

Just a few minutes ago, the distinguished Senator from South Dakota, Mr. PRESSLER, was on this floor, and he was expressing great anger at the treatment he receives as a U.S. Senator when he attempts to acquire information from the U.S. State Department. They give nonanswers. They give vague answers. They give incorrect answers. And that, in itself, is something that has long needed correcting.

But, Ms. Wells' indirect, evasive manner in responding to my questions nevertheless contained some startling admissions of a calculated attempt on her part, and I presume the State Department's, to justify and support the Marxist-Leninist government in Mozambique. Nothing else can be made of it, Mr. President.

Among other things, it is quite evident that Ms. Wells is unclear about what communism or Marxism-Leninism is. When questioned about the political liberalization in Mozambique, Ms. Wells embarks upon a diatribe on Mozambique's "support of the United States-sponsored Namibia/Angola negotiations, and more recently in its efforts to improve relations with Malawi." Then Ms. Wells went on to cite Mozambique's "shift to the West" by its "break with the Soviet Union on such international issues as Afghanistan, Cambodia, and Berlin."

Now, although Ms. Wells confesses that these were votes on which Mozambique abstained, rather than voted with the United States, she, nevertheless, continues to trumpet this as conclusive evidence of a friend of the United States, which I tell you, Mr. President, Mozambique is not.

Furthermore, a careful review of Mozambique's United Nations voting record during the 39th General Assembly shows that Mozambique never, never once voted with the United States on 10 key issues, including accepting Israel's credentials at the United Nations.

What a friend we have in Mozambique! What a friend the Free world has in Mozambique! If anybody believes that Mozambique is not Marxist-Leninist, I have a little swampland down in eastern North Carolina I would like to show you, for a price.

Additionally, Ms. Wells has already given every indication that she would be intoxicated by her clients instead of by U.S. interests. This raises a question, what is a U.S. Ambassador supposed to do when he or she goes overseas?

In her responses, she never once questions Frelimo sources, and that is why I insisted that she provide the source of her information.

Her responses provide insight into the misdirected motion that by ignoring the ever-increasing resistence of Mozambican citizens to the repression inherent in the policies adopted by the Renamo regime and by throwing United States economic and military assistance to prop up this Soviet proxy—and no other name can be given it—to prop up this Soviet proxy

in southern Africa, the issue of Renamo would evaporate into nonexistence.

So let us not be deceived, Mr. President. Peace will not come to Mozambique unless and until Renamo is brought into the decisionmaking process to determine the future of the Mozambicans by Mozambicans.

I certainly hope that my colleagues will give serious consideration to the alarming drift in United States policy toward Mozambique, a drift accelerated by the nomination of Ms. Wells.

Reiterating for the purpose of emphasis, Mr. President, I do not know this lady, and I am not criticizing her personally. But now is the time to draw the line and show our allies, our anti-Communist, our non-Communist, allies that we are not, after all, siding with the enemies of freedom.

Now is the time for us to put up or shut up in terms of wanting to resist a Communist takeover in every sector of the world.

I must confess, Mr. President, that I have been repeatedly amazed at the nominations coming out of this administration, which I am bound to say is my administration. We know who orchestrates such nominations as these. They come up under the President's name, but anybody around this place knows full well that it is the State Department and the Foreign Service Office who orchestrate the nominations. On occasion, I have asked the President of the United States if he even knew a nominee, and he confessed he did not. That is true with every President.

So I put the blame where it belongs, down in Foggy Bottom. I do not have many friends in Foggy Bottom and I am not sure I want many. I have a few, but I am not going to identify them. I will tell them that I have a few Trojan horses around, and I know pretty well what is going on and how it goes on. Let the media criticize the Senator from North Carolina all it wishes about examining various nominations coming up in this body, but the news for them and to them is that more of the same will occur as long as I am in this Senate.

Perhaps it is a bad thing to be an anti-Communist. I read in some of the liberal publications that we ought to do this, that we ought to do that. But how do you compromise with a rattlesnake? The most recent evidence of what we get when we are trusting and when we are appeasing is the way the United States Embassy under construction in Moscow was infested with bugs—not the crawling kind but the electronic kind. Now the question before this Congress is whether we are going to tear down the Embassy and start all over again. That is the kind of people we are dealing with. No explanation, no excuses will wipe away the absolute incompetence of the U.S. State Department in this regard.

That is where the blame lies. They can try to put it on a bunch of young Marines, but who was in charge over there?

Mr. President, I said yesterday that this Congress will be reduced to a bunch of wimps if we do not insist to the Soviet Union that they pay every penny that it costs the American taxpayers to knock down that Embassy under construction and start over again. Until they do that, the Soviets should be forbidden to set foot in their Embassy on the hill in Washington, DC, on Mount Alto.

I say, Mr. President, that these nominations and what goes on in various countries around the world are part and parcel of each other. They are symptomatic of an infectious disease that has permeated so much of our foreign policy structure in this country; and unless and until we get a handle on what our goals are and what our courage is, then I doubt very much that the world is going to restore to us the admiration and respect that the United States once had almost universally as a world leader for freedom.

So this nomination of Mrs. Melissa Wells is a symptom. I am very much interested in the fact that one-third of those who voted today did not even want to take it up. They did not want the nomination even to come before the Senate. The vote was 56 to 28. I will ask the Chair if that is not correct.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. HELMS. I thank the Chair.

I will tell the distinguished Presiding Officer that a number of Senators who voted procedurally to allow this matter even to come before the Senate have assured me that if this nomination is pursued seriously and there should be a vote on final approval, they will vote no.

In the meantime, Mr. President, and I will close by saying this, I am not going to talk anymore, but this in my hand is the first file folder of information I have and I want to discuss it in detail with the Senate if this nomination is brought up for serious consideration.

Mr. President, I ask unanimous consent that Mrs. Wells' responses be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC., March 23, 1987.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: Following the March 17 hearing for Melissa Wells, ambassadorial nominee for Mozambique, Senator Helms submitted questions to be answered for the record.

Please find enclosed the answers to those questions.

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative and Intergovernmental Affairs.

Enclosures: as stated.

QUESTIONS AND ANSWERS

1. Q. What is your view of the present conflict in Mozambique? What effect is the civil war having on the social, political and economic situation in Mozambique?

A. I express my view on the conflict in Mozambique on the basis of what I have learned in preparation for my assignment and on the basis of my previous experience in violence-torn areas of Africa, but with the qualification that I have not yet been to Mozambique.

In my opinion, the South-African supported insurgent movement RENAMO (Mozambique National Resistance) is operating in a manner that can only have as its objective destabilization of the country. Judged by its actions and not by its claims, the actions of RENAMO are not those of a nationalist movement. It has not demonstrated a capacity to take, hold and govern territory. RENAMO is politically fragmented, it has no political program and has not shown evidence of a structure (other than military) that could be called a permanent presence in the country.

The effects of the civil strife have devastated Mozambique's economic infrastructure, transportation routes, health centers and schools. Agricultural production has declined steadily. The emergency situation has generated more than 350,000 refugees and displaced almost two million people inside Mozambique.

2. Q. Do you advocate a negotiated settlement to the conflict in Mozambique? Is American aid presently being used in a manner that would promote dialogue?

A. The Government of Mozambique made an honest effort to negotiate with RENAMO in 1984 shortly after the Nkomati Accord, with South Africa acting as the go-between. These negotiations were on the verge of reaching an agreement on the terms of a ceasefire. The RENAMO representative asked for time to consult and never returned to the negotiating table. We have never encouraged the Government of Mozambique to try and prevail through a strictly military approach. If there is an opportunity in the future for a second try at negotiations and if the Government of Mozambique decides that it is in its interest to again pursue negotiations with RENAMO, I would be prepared to encourage contacts and dialogue among Mozambicans within Mozambique.

Because of legislative restrictions, resources from our ESF Program in Mozambique are directed solely to the private sector. A more effective political "handle" on our ESF Program permitting resources to government entities and programs does therefore not exist at the present time due to legislative restrictions. Our food assistance to Mozambique under the present emergency is to assist the people of Mozambique and has no political objective such as to promote dialogue.

4. Have you personally spoken to representatives of the various opposition parties and groups in the Mozambican Civil War? Provide a list of all contacts made by United

States government officials, direct and indirect, with political dissidents and opposition leaders in Mozambique.

It is the Administration's policy not to have official contacts with RENAMO. Accordingly, I have not personally spoken with representatives of Mozambican opposition groups.

To my knowledge, the following contacts between United States government officials and opposition representatives have occurred:

Philip Ringdahl, then Director for African Affairs at the National Security Council, was introduced to RENAMO official Arturo Da Fonseca at a meeting in Congressman Dan Burton's office in August 1986.

Patrick Buchanan, then White House Communications Director, met with Arturo Da Fonseca in August 1986. The NSC staff and State Department were not aware of this meeting until it became the subject of an apparent Soviet disinformation effort in southern Africa.

David Lyon, a Foreign Service Officer assigned to the National War College for a year of academic study, met with RENAMO official Luis Serapiao in January 1987 while doing academic research. The State Department authorized Mr. Lyon's meeting with the understanding that he undertook it in his personal capacity in connection with his academic work, and not in an official capacity.

5. Q. During your meeting with Committee staff, you compared RENAMO to the Red Brigade in Italy. Upon what information did she base this comment? Provide complete details of comparison of objectives, tactics and organization.

A. During my meeting with Committee staff on March 16, 1987, there was a lengthy discussion as to whether RENAMO actually controlled areas of Mozambique. I made the point that RENAMO had certainly proven its ability to destroy targets and make it difficult for the Government of Mozambique to operate in certain areas, but that this capability was not tantamount to control. RENAMO's tactics have been hit-and-run attacks and ambushes. Aside from its camps, RENAMO has not demonstrated a capacity to take, hold and govern territory. My reference to the Red Brigade was to make the point that while the Red Brigade at one time wreaked havoc in certain parts of Italy with bombings, leg-shootings and assassinations, at no time was that area ever considered to be under the control of the Red Brigade. When I was asked whether I was comparing the Red Brigade to RENAMO, I explained that I was comparing the type of tactics used to the question of control of territory. I did not make or intend to imply a comparison of political orientation or agenda.

6. Q. The United States has had official contact with the leaders of the African National Congress. The ANC have undisputed Marxist members and receive Soviet support. They employ terrorist tactics as a matter of policy. What is your understanding of why the State Department has not even unofficial contact with the Democratic Resistance of Mozambique? Will you attempt to meet with the resistance? If not, why not?

A. Our decision to enter into dialogue with the ANC was not taken lightly or quickly. As Secretary Shultz has made clear, we have serious misgivings about the ANC, but it has a mass following in South Africa and is obviously an important factor in the South African political equation, and one that has to be involved in a peaceful resolution of South Africa's problems. The ANC began as a peaceful mass political organization, unlike RENAMO, and only turned to violence when it was banned fifty years after its founding and its leaders were incarcerated. My understanding of why the State Department does not even have unofficial contact with RENAMO is because there are some notable differences between the ANC and RENAMO. RENAMO was organized, trained and equipped by the Rhodesian Special Air Services during the period of Ian Smith in Rhodesia and since then has been taken over essentially by the South African military. RENAMO claims to be fighting for democratic principles in Mozambique, but has produced no evidence to substantiate these claims in its behavior in areas of Mozambique where it is most active. RENAMO's commitment to peaceful solutions is uncertain and it has no record of concern for the relief of suffering in Mozambique. On the contrary, Amnesty International and other humanitarian organizations have reported widespread atrocities by RENAMO forces against Mozambican civilians. RENAMO walked away from negotiations with the Government of Mozambique on the verge of a ceasefire agreement mediated by South Africa in October 1984. It has not given adequate assurances to the International Committee of the Red Cross that it will respect the neutrality of the Red Cross emblem. It has attacked CARE trucks bringing relief food to food-deficit areas. Against this background it is far from clear what purpose would be served by U.S. contacts with RENAMO. It remains Administration policy to refrain from official contact with RENAMO and I will not attempt to contact them in violation of such instructions.

7. Please give your analysis of the policies and potential of FRELIMO's new President, Joaquim Chissano.

Upon becoming President, Mr. Chissano pledged to carry out the policies of his predecessor, the late Samora Machel, and his actions have been consistent with that commitment. President Chissano has conducted a nonaligned foreign policy while moving to broaden Mozambique's international ties, particularly with the West. He has reaffirmed Mozambique's commitment to the Nkomati Accord with South Africa, improved relations and cooperation with Malawi, and maintained an active and positive role in regional diplomacy. Under his leadership, the Government of Mozambique has continued to undertake economic reforms which encourage the private sector and foreign investment and—to this end—has vigorously pursued negotiations with the IMF and IBRD in support of further opening of the country's economy. He has made clear his desire to expand Mozambique's ties to the United States.

For the future, much depends on how the people of Mozambique and foreign governments respond to President Chissano's actions and policies. On the basis of his record thus far, I believe that President Chissano's potential for playing a constructive role for his country, for southern Africa, and for the international arena in general is quite good.

8. During your testimony before the Foreign Relations Committee you stated that Mozambique was "shifting to the West". Describe the nature and extent of Mozambique's so-called shift to the West. What signs of political liberalization in Mozambique are there to support your statement?

Since 1982, the Government of Mozambique has steadily improved its relations and expanded its cooperation with Western countries, including the U.S.

It has worked closely with us and our Western allies in efforts to bring peace to southern Africa, through its historic negotiations with South Africa, through its strong support of the U.S.-sponsored Namibia/Angola negotiations, and more recently in its efforts to improve relations with Malawi.

While its overall record on recorded United Nations votes remains far from satisfactory, it continues to improve in response to our representatives. Mozambique has broken with the Soviet Union on such international issues as Afghanistan, Cambodia, and Berlin.

In the security field, Mozambique has quietly moved to expand cooperation with western countries. It has begun sending Mozambican military officers to a British military training camp in Zimbabwe, and Mozambique recently hosted a British naval ship visit. It is actively engaged in discussions of programs with other members of NATO.

Mozambique has joined the World Bank, International Monetary Fund, signed the Lome Convention with the European Community, and entered into an agreement with the United States Overseas Private Investment Corporation—all of which have increased Mozambique's involvement with Western economic institutions.

On the economic front, the government has expanded the role of the private sector by selling off more than twenty state industrial enterprises to the private sector, as well as more than 13,000 hectares of state farm land to private farmers. The government has also offered incentives to private entrepreneurs by raising producer prices and allowing exporters to retain a portion of foreign exchange earnings. A new wage policy adopted in January 1987 encourages employers to reward their most productive employees with wage incentives.

Political liberalization in Mozambique is evident in the conduct of the 1986 elections, in which there were 20 percent more candidates than seats available, thus affording voters a measure of choice and a chance to express their views. Some candidates proposed by the FRELIMO party were rejected by voters, and some candidates who were not members of the FRELIMO party were elected to the various assemblies. Balloting for district, city, and provincial elections was indirect, but was conducted by secret ballot for the first time.

In addition, the government's relationship with the churches has improved considerably over the past several years. Most churches that were closed after independence have reopened, and President Chissano recently called on the churches to work for peace, development, and progress in the country. Pastoral letters issued in 1986 by the Catholic bishops which were critical of the government policies circulated widely without reprisals from the authorities. The government recently allowed 100 Jehovah's Witnesses expelled after independence in 1975 to return to the country.

These examples illustrate the depth and breadth of constructive change in government policy over the past several years, and, I believe, justify continued U.S. efforts to encourage a significant and quite positive trend.

9. Q. President Chissano stated on Mozambican state radio on February 3, 1987, "we have been holding talks with the IMF and the World Bank. One might feel that we are having doubts about the socialist

option. No, that is not the case. We chose socialism and we did not do it arbitrarily . . . We combined it with the scientific teachings of Marxism-Leninism." In your opinion, does this indicate a shift away from Marxist-Leninist doctrine and practices.

A. The Government of Mozambique has never suggested that the dramatic reorientation of its economy away from socialist practices meant abandonment of the government's *theoretical* commitment to socialism. However, in the same speech from which this quote is extracted, President Chissano explicitly stated "we are going to support the private sector." The Government of Mozambique has backed up this commitment with far reaching steps to privatize the economy, encourage economic initiative by individual Mozambicans, and encourage Western private investment.

Mozambique's cooperation with the IMF/World Bank has required hard choices, such as dramatic currency devaluation, going well beyond rhetoric. Based on its *concrete actions* since 1983, the Government of Mozambique has proven that it will not be bound ideological dogma. It has demonstrated in action its commitment to the economic recovery of the country through greater reliance on the free market and productive economic relations with the West.

10. What is Mozambique's economic relationship with the USSR? Is Mozambique's dependence increasing or decreasing? Provide detailed examples. Provide details on the recent economic accord signed between Mozambique and the United States.

A. Mozambique's economic relations with the USSR are conducted under a bilateral agreement between the two countries which established a joint Mozambican-Soviet economic commission. Moscow uses similar arrangements to manage its economic relations with most Third World countries. Mozambique is not, however, a member of Comecon, nor does it have observer status in that organization.

On March 11, the USSR and Mozambique signed a protocol reflecting the results of a session of the Mozambique-USSR Joint Economic Commission. While details of the agreement have not been published, Mozambican media reports indicate that the protocol covered rehabilitation of Mozambique's State Petroleum Enterprise, Soviet contributions to other Mozambican industrial enterprises, and Soviet participation in rehabilitation of the Beira transport corridor. The protocol does not appear to be a new agreement; rather it appears to be an agreed plan for Soviet contributions to the Mozambican economy under the existing agreement.

The following figures indicate strongly that the role on Soviet economic assistance in the Mozambican economy has diminished sharply since the early 1980s:

Soviet assistance to Mozambique

Year:	*Millions*
1980	$85
1981	45
1982	5
1983	15
1984	5
1985-86	(1)

[1] Figures not yet available but will probably be similar to last 3 years.

While Soviet economic assistance has been declining sharply, Western economic assistance to Maputo has increased to over $500 million in 1986. Mozambique's major export trade partners are Spain, the United States and Japan. On the import side, the United States, South Africa, France, and Italy, as well as the USSR, are major suppliers. The evidence thus indicates that "dependence" is not an accurate description of Mozambique's economic relationship with the USSR. Instead, the role of the Soviet Union in the Mozambican economy has decreased throughout the 1980s both in absolute terms and relative to the role of Western countries.

11. Q: What was the purpose of the visit by the Soviet Communist Party delegated to Maputo in February? What accords were signed?

A. Semen Kuz'mich Grossu, First Secretary of the Central Committee of the Communist Party of Moldavia and a member of the Soviet National Central Committee, conveyed a message to President Chissano from General Secretary Gorbachev on February 17. No accords were signed. Discussions were held concerning arms control, Mozambican initiatives to promote peace in southern Africa, and the economic situation in Mozambique. Gorbachev's message pledged continued support for the Government of Mozambique.

15. Q: As an official at the United Nations, you undoubtedly had numerous opportunities to observe the delegation from Mozambique. How would you characterize Mozambique's support of the United States actions in the UN? What is the official State Department evaluation of Mozambique's support of the U.S. at the UN? Do you agree with this evaluation? If so, why?

A. In the years I spent at the US Mission to the UN, I found Mozambique's representatives uniformly courteous, though Mozambique did not vote with the U.S. very often. The official Department of State evaluation of Mozambique's support for US actions at the UN is a quantitative one: in the 41st UNGA (1986) Mozambique's plenary vote coincided with the US vote, when both countries were voting either "yes" or "no", only 7.2% of the time. This gave Mozambique the third-from-last position in the African group and the sixth-from-last place among the members of the Non-Aligned Movement. In comparison with most other nations, Mozambique was not very helpful to the US in terms of voting coincidence; this is consistent with Mozambique's behavior over the past four UNGAs in which the USG produced voting reports, and squares with my own observations as US Representative to the Economic and Social Council. However, I would also observe that there is reason to believe a possibility exists for improvement in Mozambique's voting on the basis of our discussions with it. For ten issues that the Department of State identified as the most important ones at the 41st UNGA, Mozambique's delegation absented itself on the other five: Kampuchea, Israeli credentials, Afghanistan, the US resolution on chemical and biological weapons, and human rights abuses in Afghanistan. I take this to indicate that on these issues the GOM did not actively support the U.S. but neither did it oppose our positions or support those of the USSR.

16. During your tenure, what has Mozambique's voting record in support of positions taken by the United States? Include additional information on Mozambique's rank in comparison with the other member nations. What nations have voted with the United States less than Mozambique?

A. In the years I spent at the US Mission to the UN (1977-79), I found that Mozambique did not vote with the U.S. very often. The U.S. began to assemble voting reports on UN members beginning with the 37th UNGA in 1983. From my own experience as Ambassador to the Economic and Social Council, I cannot see that Mozambique's record of support for US positions has changed much in the interim. In the 41st UNGA (1986). Mozambique's plenary vote coincided with the US vote, when both countries were voting either "yes" or "no", only 7.2% of the time. This gave Mozambique the third-from-last position in the African group and the sixth-from-last place among the members of the Non-Aligned Movement. However, I am also aware that after my tenure at the US Mission, Mozambique improved its votes on Kampuchea and Afghanistan by breaking with the Soviet position. This is a positive development which I would hope to encourage if confirmed as United States Ambassador to Mozambique. I therefore look forward to the opportunity of using my UNGA experience in contacts with GOM officials responsible for Mozambique's UN policy to persuade them to be more supportive of and sensitive to U.S. views.

17. Did you express any agreement with UN Ambassador Andrew Young's policy towards the PLO? If so, provide details. If not, why not?

It was the policy of the Carter Administration as it is the policy of the Reagan Administration today not to have contacts with the PLO. I supported that policy at that time as I do today.

21. Q. U.S. AID Administrator Peter McPherson is proposing a multi-million dollar food assistance program for Mozambique. He has limited statistics on the extent of the famine and claims 2.2 million starving people are inaccessible due to the war. Mr. McPherson has resisted suggestions that he contact RENAMO to get more information and enlist their cooperation in facilitating the relief program. Do you agree with Mr. McPherson's approach to this problem, How do you plan to handle this problem?

A. Estimates are that approximately 2.2 Mozambicans are living in insecure areas. The Government of Mozambique transports relief supplies by armed convoy, by air lift or coastal barge to these areas. Approximately 1 million Mozambicans (of a total of 14.5 million) are considered to be in areas access to which is extremely restricted because of security problems.

I recognize that the insurgency, and the food distribution problems it has caused, raise difficult questions about how to assure that food gets to the people who need it most wherever they are in Mozambique. We are working closely with our partners in Mozambique, the Government, the donors, the international organizations, and the PVO's to put together a logistical system that will work. The International Committee of the Red Cross (ICRC) has been discussing with the Government of Mozambique how to facilitate distribution of relief supplies in wartorn areas. The Government of Mozambique has been most supportive of an ICRC role in the emergency.

Mr. McPherson called for a UN food coordinator for Mozambique. Now that one has been appointed, we will be meeting with other donors in Geneva March 31 to give further impetus to relief efforts. If Renamo is serious about helping hungry Mozambicans, I earnestly hope it will cooperate with this international effort.

22. Provide any information, as complete as possible, of the October 16, 1986 meeting of Samora Machel with a military and security delegation from Zimbabwe.

A: According to documents which the Government of South Africa reported that it had recovered in the wreckage of the late President Machel's plane, the meeting in question discussed ways of bringing pressure on the Government of Malawi to halt its alleged assistance to the Mozambican insurgent movement RENAMO.

We cannot independently corroborate the authenticity of the documents publicized by the Government of South Africa.

During the period in question, relations between Mozambique and Malawi were tense. In a September 11 visit to Malawi by Presidents Machel, Mugabe, and Kaunda, the three leaders met with Malawian President Banda to insist that the Government of Malawi halt its alleged assistance to RENAMO. These tensions illustrate the continuing importance of efforts by all parties in southern Africa to seek and implement alternatives to violence and confrontation.

Since last fall, the Governments of Mozambique and Malawi have demonstrated that a strategy of dialogue and negotiation can work. The two countries began discussions in November 1986 which led to agreements on security and economic cooperation in December. A joint security commission established as a result of these discussions meets regularly, and the two countries' armed forces are now jointly providing security on the Nacala rail line between Malawi and Mozambique.

23. Provide any information, as complete as possible, of all attempts by Mozambique and Zimbabwe to destabilize neighboring states. What is the United States' policy on providing assistance to nations seeking to destabilize their neighbors? Do you believe that the United States should continue providing assistance to countries whose purpose is to spread Marxism-Leninism by destabilizing neighboring states? If so, please explain.

A. The only charge of destabilization against Mozambique and Zimbabwe of which I am aware arises from documents said to have been recovered from President Machel's plane after it crashed in South Africa October 19, 1986. I am not in a position to verify or deny the authenticity of these documents. However, the tensions last fall between Mozambique and Malawi only underscore the continuing need for negotiations among the states of the region to bring an end to cross-border violence so they can deal with their internal problems free from outside aggression. The recent improvement in relations between Mozambique and Malawi is a successful case study of how this process can work. After tensions between the two countries rose in the fall of 1986, they began discussions in November 1986 which led to agreements on security and economic cooperation in December. A joint security commission established as a result of these discussions meets regularly, and the two countries' armed forces are now jointly engaged in providing security for the Nacala rail line between Malawi and Mozambique.

This Administration does not provide assistance to governments seeking to destabilize neighboring countries. Rather, we support negotiations to achieve peaceful resolution of differences, such as the 1984 Nkomati Accord between Mozambique and South Africa and the negotiating process between Malawi and Mozambique which I have described above.

24. In the 1982 Human Rights Report, the Department of State officially described RENAMO as an "insurgent force" and the people of RENAMO as "insurgents". Now the Department is using the Mozambican Marxist government's terminology, "bandits". Between 1982 and 1987 what changes have occurred to cause the Department to adopt this new terminology?

A. As the State Department's 1986 Human Rights Report and statements by Department officials amply demonstrate, we continue to refer to RENAMO personnel as insurgents. However, we have received occasional reports of violent acts in Mozambique which correspond to the generally accepted definition of banditry, which may have been committed by persons without any political affiliation, or by renegade RENAMO or Mozambican Armed Forces personnel.

25. Q. Mozambique's re-education camps are frequently cited in the Department's human rights reports. Please provide the Committee with a detailed description of the camps, including location and number of prisoners. How does the Department compare conditions in Mozambican re-education camps with conditions in similar camps in Vietnam and Cambodia.

A. Not much precise information on "re-education" camps is available, and it is not possible to provide a list of the camps. I have been informed that the general impression in Maputo is that some, if not most, camps have been disbanded. During a visit to Niassa Province in 1985, Ambassador De Vos and an Embassy officer were told that all camps there were shut down and the detainees released.

Some information, however, is known about "re-integration" camps for captured insurgents in Inhambane Province. During a visit to the province in April 1986, an Embassy officer was told by the provincial military commander that in 1984 the Government of Mozambique opened a "rehabilitation" camp at Massinga for insurgents who had voluntarily surrendered. The camp's program included vocational training (farming) and basic health services. During the course of 1985, 86 rebels had been "rehabilitated." The provincial military commander claimed that the camp had been inspected by Amnesty International. I have been in touch with Amnesty International to verify this claim.

The Government media in February of this year described a "provincial center for reintegration" of former insurgents at Chiunze in Inhambane Province. The camp's program included agricultural training, and gave literacy and handicraft classes. A number of interviews were published in which the former "armed bandits" maintained that they had been pressed into service by the insurgents.

Our Embassy has received no reports of human rights abuses in the camps. The conditions apparently are not nearly as harsh as, presumably, is the situation with "re-education" camps in Vietnam and Cambodia. There are, of course, regular prisons throughout the country, including one in each provincial capital. The Mozambican media have featured a number of reports over the past year on conditions in the prisons, with concerns being expressed on the need to ensure against overcrowding and provision of proper health services. these prisons reportedly train inmates in vocational skills ranging from farming to shoe making.

26. Q. Has the United States government ever asked the Mozambican government to free the detainees in the re-education camps? If not, why not? Has the United States ambassador ever asked for permission to visit prisoners in those camps? If not, why not? Will you request permission to visit prisoners in those camps? If not, why not?

A. Yes, the US Ambassador has asked for permission to visit re-education in the past. The US Ambassador has also registered with the Government of Mozambique US concerns about detainees. If confirmed, I will request permission to visit camps—be they "re-education", "reintegration" or "rehabilitation" camps.

27. The United States Congress placed requirements on the government of El Salvador that it adopt a democratic form of government before the United States would provide military or economic aid. Do you believe such a requirement would be appropriate for Mozambique? If not, why not?

A. Congress has already placed restrictions on economic and military assistance to Mozambique; the latter is contingent upon political and economic reforms, including free elections. I believe that it is appropriate for the United States to encourage Mozambique's continued movement toward the West, cooperation on southern African issues, economic reforms, and progress on human rights issues. However, in doing so, we should take into account the country's specific internal and regional situation. Mozambique is not El Salvador, nor is the level of economic aid we provide Mozambique comparable to that which we give El Salvador. We should concentrate on what is realistically achievable in the short term as well as long term, and set our benchmarks accordingly.

30. Do you support the President's policies of constructive engagement from a personal as well as a professional assessment of the situation in southern Africa?

I support the President's policies of constructive engagement from a personal and professional viewpoint. This policy has been an outstanding success as far as our relationship with Mozambique is concerned.

34. What percentage of Mozambique does RENAMO have effective control? Cite source.

A: The conflict in Mozambique has been in an especially fluid phase since last fall. During the latter months of 1986, RENAMO conducted an offensive in which it established a military presence in a significant percentage of the total area of Mozambique. During the early months of this year, a combined offensive by Mozambican Government and Zimbabwean troops expelled RENAMO forces from any of these areas.

In this rapidly changing military environment, calculations of the percentage of Mozambican territory occupied by RENAMO forces are extremely difficult to make and are of questionable value. Such calculations are futher complicated by the fact that RENAMO has not established political or administrative structures in areas which it occupies militarily, and by the demonstrated ability of government forces (with the assistance of Zimbabwean forces) to maintain access to the vast majority of Mozambique's population. This judgment is based on the full range of information available to me on the military situation in Mozambique.

37. In Ethiopia, the government's policy of forced relocation and collectivization of the population contributed to the human disaster in 1984–1985. Mozambique has imposed a similar policy of collectivization of the rural people by hearding them into "aldeas". What impact does this policy of forced removal and collectivization have on the

people? What impact is it having on agricultural productivity? What is the U.S. response to the Mozambican government? Do you agree with this response?

Following independence the Government of Mozambique initiated a policy of creation of "Aldeas Communais", (communal villages) throughout the country. Communal villages were intended to accomplish two objectives: To gather together dispersed peasants in order to provide effective educational and health services, and to provide a setting for social and political transformation. The communal villages are built on existing physical and tribal structures and did not appear, for the most part, to involve forced resettlement. In Cabo Delgado, Niassa, and Tete Provinces, the government used the fortified villages which had been established by the Portuguese as a basis for the communal villages. In Maputo and Gaza Provinces, the government resettled some rural inhabitants into communal villages following extensive floods in those provinces in 1977. In 1982 there were 1,352 communal villages (according to the Mozambique country study), of which 543 were in Gabo Delgado, 260 in Nampula Province, and 139 in Gaza Province. Embassy officers have over the past several years visited a number of "Aldeas Communais", and have seen no evidence of forced resettlement. Creation of communal villages slowed in the early 1980s and now appears centered on resettling war refugees and victims of drought. During a trip to Inhambane Province last year, an Embassy Officer visited one such "communal" village. The village was composed entirely of war refugees from several parts of the province, near the provincial capital of Quelimane. The village spokesman described medical and educational facilities in the village, and explained that village officials had been elected by the inhabitants themselves. As the limited number of communal villages indicates, most rural Mozambicans do not live in them and some provinces, Manica for example, do not have communal villages. During a visit to Gaza Province in February, President Chissano was quoted in the local media as telling provincial officials that the program of "communal villages" would be re-evaluated in order to avoid errors that had been made in the past. In 1983 the government launched "Operation Production", which moved about 100,000 unemployed people from Maputo to the provinces to engage in agriculture. The government quickly abandoned this project of forced resettlement, admitting that it had been a failure, and many of those relocated have since returned to Maputo.

It is difficult to assess the effect of communal villages on the population and production. Overall economic production has declined each year since 1981 due to a combination of factors including government mismanagement, drought, lack of inputs, and the insurgents' attacks on economic targets and villages. At the Fourth Party Congress in 1983 a decision was taken to stimulate the private sector in agriculture in order to increase production. In conjunction with its economic rehabilitation program announced early this year, the government emphasized that priority would be given to private and family farming.

38. Explain your statement in the hearing that "Mozambique had experimented with scientific socialism?" Is scientific socialism another name for communism? Why do you persist in using the misnomer of scientific socialism when Joaquim Chissano himself stated, "we have combined our experiences with the scientific teachings of Marxism-Leninism"?

The terms "scientific socialism" and Marxism-Leninism were both used at the Third FRELIMO Party Congress in 1979 by President Samora Machel to describe Mozambique's political orientation. As explained by President Machel at the time of that Congress, and as indicated in the quote from President Chissano in your question, Mozambique's political orientation represents a synthesis of the country's own experiences with these principles. For example, classic Marxism-Leninism calls for the dictatorship of a proletariat, the latter—for all practical purposes—being non-existent in Mozambique.

42. In 1985, the State Department requested $1 million in military assistance for Mozambique. Congress denied the request and conditioned any military assistance to Mozambique on political and economic reforms including full restoration of free enterprise, the reduction of foreign military personnel, and free elections. Do you believe that Mozambique has met these requirements?

No, I do not believe that these requirements have been met but an encouraging trend in political and economic reforms is underway.

43. Q: Provide information on the United Democratic Front of Mozambique (FUMO). Who are its founders? What are its objectives? Does it support the Frelimo Government? What is its relationship with RENAMO?

I found the following information on FUMO in the *Area Handbook for Mozambique:*

The United Democratic Front of Mozambique (Frente de Unidade Democratica de Mocambique—FUMO) . . . "Formed among exiles in Europe, it claimed to have offices in France, Great Britain, and the Federal Republic of Germany (West Germany). Its major leader was Domingos Arouca, a black Mozambican who had originally been a follower of Mondlane but had rejected his—and FRELIMO's Marxism-Leninism for a less radical form of socialism. Arouca, long imprisoned by the pre-1974 Portuguese government, was a close associate of the leaders of the Socialist Party who were in power in Portugual in 1977.

In July 1976 FUMO announced creation of a government in exile. It claimed to be motivated by the instability, chaos, and destitution brought about by Michael. It also claimed that its policies would follow the "true" thought of Mondlane, creating a racially integrated state composed of ethnic divisions in a federal format, and that under FUMO Mozambique would integrate itself into a Lusitanian community. FUMO was frequently associated with the Voice of Free Africa, a clandestine anti-FRELIMO radio service believed to originate in Southern Rhodesia. By January 1977 FUMO claimed to control northern Cabo Delgado Province and to be spreading in the southern provinces.

FUMO or a similar organization was alleged by some to be gaining support in FRELIMO among party leaders alienated by Machel's policies. That an organized opposition existed appeared to be confirmed by Machel's frequent charges that enemies were at work inside the party.

In December 1986 a FBIS item from Lisbon noted a communique distributed by FUMO reporting that FUMO had overcome its previous aloofness and at times hostility to RENAMO. The item reported that FUMO now supported RENAMO. It is not known how many followers FUMO currently has, but they are believed to be negligible in number.

44. What steps have been taken in Mozambique to promote political pluralism? Provide information on Mozambique's most recent elections. Discuss the nomination process, the voting process, and the freedom and fairness of the elections.

Mozambique held general elections between August and December 1986, the first elections held since 1977. The elections were held within the framework of the country's one-party constitution. The FRELIMO party drew up single slates of candidates for the elections, and local party structures reviewed these slates with the local population prior to the election. Voters at the village level then physically assembled to vote on the candidates. For the first time, there were by law 20 per cent more candidates than seats available in the various assemblies. In addition, several dozen candidates nominated by the party were rejected by the voters at various elections meetings, and some of those elected were not party members. Balloting for district, city, provincial, and national elections was indirect, but was conducted by secret ballot for the first time. We understand that an estimated sixty per cent of those elected to district assemblies were first-time candidates, and as much as a third of the victors at the district level were not party members.

Although RENAMO threatened to disrupt the elections, balloting took place throughout the country, except for certain districts in Tete and Zambezia provinces.

While the elections were not comparable to Western democratic elections, they did offer the Mozambican people a greater measure of choice than ever before and an opportunity to express their views. In that sense, they represented a step forward for the country.

46. What is the Mozambique Business Council? What is their source of funding? What political activities is the Council involved with in the United States.

It is my understanding that the Mozambique Business Council was organized as a non-profit corporation for the purpose of encouraging private sector development and private U.S. investment in Mozambique. The office of the Council was closed in early February and I have no knowledge of when or if it will re-open.

In response to my inquiry the former vice president of the Business Council advised that initial funding for the operation was provided through a Mozambique entity called the Institute of Mozambiquan Studies with the transfer from the organization made by the Ambassador of Mozambique to the United States. The source of the Institute of Mozambiquan Studies funds is not known. Supplemental funding was received through International Trade Management Corporation (ITM), a U.S. corporation with offices in New York City. It is not known where those funds originated. Funding in each case was understood by the former vice president to have been authorized by the Mozambique Government.

The council has not been involved in political activities in the United States. It has hosted meetings between Mozambique officials and U.S. Government officials including Congressional Staff. The Council has taken no position on any legislation.

47. Provide a list, complete as possible, of all contacts you have had with members of the Mozambican Business Council?

I have met with Mr. William Sullivan and his wife Mrs. Ann Sullivan of the Mozambique Business Council.

48. What is SOCIMO? What is their source of funding? What are their activities in the United States?

It is my understanding that SOCIMO is a para-statal trading corporation organized by the Government of Mozambique.

I understand that SOCIMO earns income from investments and from representation fees. I have no knowledge of their source of income beyond that.

49. Provide a list, complete as possible, of all contacts you have had with members of SOCIMO.

I have not had any contacts with members of SOCIMO.

8) Why does the Mozambican government not make serious efforts to win the hearts and minds of the people? Other than propaganda efforts, how is the Mozambican government demonstrating its responsiveness and caring for the needs of its people to them?

A: The Government of Mozambique suffers from a lack of trained personnel to staff its administrative structure competently. For example, from the Portuguese colonial era, it inherited an illiteracy rate of 96% at the time of independence. Education and health services have been high priorities for the Government of Mozambique. The Government's responsiveness to the needs of the people is evidenced by its continuing to rebuild schools and clinics destroyed by civil strife as quickly as possible.

10) You paint a hopeless picture of what you choose to call the insurgency in Mozambique. On the one hand, you attribute the lion's share of Mozambique's problems to RENAMO, but you specifically refuse to meet with RENAMO representatives in or out of Mozambique to find a solution? Why this contradiction?

A: RENAMO's commitment to peaceful solutions is uncertain and it has no record of concern for the relief of suffering in Mozambique. On the contrary, international humanitarian organizations have reported widespread atrocities by groups claiming to represent RENAMO against Mozambican civilians. RENAMO has not given adequate assurances to the International Committee of the Red Cross that it will respect the neutrality of the Red Cross emblem. It has attacked CARE trucks bringing relief food to food-deficit areas. It remans Administration policy to refrain from official contact with RENAMO and I will not attempt contact in violation of such instructions.

12) It is clear that the State Department favors a military solution over negotiations in the Mozambican civil war. This is astonishingly contradictory of U.S. policy everywhere else in the world, most especially in Nicaragua, Afghanistan, Angola, Namibia, and the Philippines. Are you now prepared to recommend IMET or other military assistance to the Mozambican government in the war for its survival? If not, at what point would you make such a recommendation?

A: As I explained in response to a question last week, the U.S. has never encouraged the Government of Mozambique to try and prevail through a strictly military approach. (Economic and political solutions to the turbulence in Mozambique are the prime goals of U.S. policy.)

As to the specific questions asked above, I am not prepared to make any recommendations concerning U.S. policy to Mozambique until I have actually been to Mozambique and can form opinions based on my own personal experience.

13) The presence of Foreign Occupation Troops is always worrisome. Yet Tanzanian and Zimbabwean troops have shown themselves willing to assist unpopular Marxist or Scientific Socialist regimes. Is this a stabilizing and desirable factor in Africa? Would Nigeria's offer to provide military assistance and troops or that of Ethiopia's communist dictatorship also be seen as stabilizing in southern Africa?

A: At the request of the GPRM, the Governments of Zimbabwe, Tanzania, and Malawi have sent forces to Mozambique to defend themselves against a South African-backed effort to deprive them of essential transportation egress and to prevent the establishment of a hostile regime in Mozambique. No Ethiopian or Nigerian troops are present in Mozambique. All the black-ruled, southern African states, including Botswana, Zambia and Zaire, share an interest in preserving access to the sea through Mozambique and in preventing the overthrow of the government in Maputo.

14) Do you think the withdrawal of Zimbabwean forces might bring about negotiations in Mozambique?

A. Zimbabwe has indicated it is prepared to fight to keep transport routes open and to maintain Mozambique's independence. There is no evidence that Zimbabwean withdrawal would contribute to these objectives or to the opening of negotiations in Mozambique.

16. In spite of Mozambican and South African requests, the U.S. lagged in participating in the investigation to determine the cause of the crash of the jetliner containing President Machel and his party. Informed sources indicate that both the U.S. Mission in Pretoria and that in Maputo urgently requested U.S. participation but that the Africa Bureau dragged its feet. Please supply classified and unclassified cable traffic and other communications regarding U.S. participation in the on site and follow-up crash investigations in South Africa and the Soviet Union.

A. Following requests by both Mozambique and South Africa, American, British, West German, Canadian, French, and New Zealand technical experts travelled to Mozambique, South Africa, and the U.S.S.R. to assist in the preliminary technical investigation. The U.S. provided two representatives at two different stages. The first was an air force officer skilled in technical investigations of air crashes and in examining "black boxes". He joined the international investigative team in London, and travelled with them to Switzerland, the U.S.S.R., South Africa, and Mozambique. He subsequently contributed materially to the technical report that was given to the South African commission charged under international aviation practice with writing the final report on the crash.

The other U.S. participant was a civilian aviation medicine specialist who helped the commission investigate human factors in the crash. He consulted with the South Africans and Mozambicans for approximately two weeks. We expect that the South Africans will issue the final report on the cause of the crash shortly.

The South African foreign minister has formally expressed his appreciation for the U.S. assistance in the investigation. Any delays in providing assistance were due only to the difficulty of arranging for two individuals to travel at short notice, and to the necessity of coordinating our participation with the Government of Mozambique and with the other international participants. An officer from the Department of State will be happy to brief you or your staff at your request.

17. Within hours after President Machel's plane crashed, Alfred Nzo of the communist-controlled African National Congress (and a member of the South African Communist Party) issued a statement in Copenhagen that the South African Government had been responsible for the crash. This is the widely-held view of many so-called third world and so-called non-aligned countries such as Cuba, Libya and Yugoslavia and of many members of the Organization of African Unity. What public and private statement has the USG made on this topic, especially to distance itself from this tragically divisive and scientifically specious explanation?

A. The Department has stated that under the Chicago Convention on International Civil Aviation, the primary responsibility for investigating the crash lies with the country of occurrence, i.e., South Africa. We have noted that under the Convention, the Governments of Mozambique and the U.S.S.R. also have roles to play in the investigation. We stated that, while the U.S. had no legal obligation to become involved in the investigation, we were willing to assist if our participation were requested by both the Mozambicans and the South African governments. We in fact expeditiously named a participant after a delay in receiving formal requests from both nations.

We have continuously stated that we will not be in a position to comment on the cause of the crash until the final investigative report is publicized. As far as we can determine, the investigation has proceeded in a professional manner.

19. You criticize RENAMO for not "showing evidence of a structure (other than military) that could be called a permanent presence in the country." What is the structure of the Mozambican Government and how does it distinguish itself by efficiency, responsiveness, or willingness to forego military influence? Specifically, how many ministers or sub-cabinet senior officials hold military commissions?

A. The Mozambican Government is organized at national, provincial, and district and local levels. There are provincial officials responsible for economic matters, relief efforts, local government, and so forth. Similarly, there are district administrators and local officials responsible for the various areas.

In the countryside the Government maintains services, however haphazardly, such as schools, health services, emergency relief where applicable, as well as other administrative chores. There is little evidence that RENAMO carries out any of these activities in the few areas where it predominates.

The effectiveness of the Government is constrained by the lack of trained officials at the middle ranks. This makes the bureaucracy often inefficient and unresponsive. At the same time, well-trained officials at the senior levels are often efficient and competent. Senior officials are regularly dispatched to the provinces to consult with local authorities and monitor conditions.

While a number of ministers of the Government and Politburo members have military titles, none of them (except the Minister of Defense and Politburo Member Chipande and the President) are actively involved in military matters. Four of the seventeen ministers of the Government have military titles and all eleven members of the Politburo have military titles, but these are merely ceremonial titles for most of them.

20. How many Mozambican ministers and sub-cabinet senior officials have received training in the Soviet Union, Soviet-client

states, Cuba, North Korea, Veitnam, etc? Which have received such training?

A. While a number of Mozambican officials have of course travelled to the Soviet Union or its client states, few Mozambican ministers and sub-cabinet senior officials have received training in the Soviet Union or its client states. Most of these officials received training in western countries, particularly Portugal and France, in China, or in non-aligned countries, such as Algeria and Yugoslavia.

30. You have indicated that State Department goals for Mozambique include "to create conditions for peace through negotiations and an end to cross-border violence." Yet these conditions exclusively center on assisting the Mozambican Marxist government to strengthen its position, economically and militarily, without cutting its ties to the Soviet bloc. How consistent are your goals with your strategies?

A: The Administration's goal of creating conditions for peace throughout southern Africa is entirely consistent with our strategy of encouraging the Government of Mozambique to undertake policies which benefit its people and contribute to peace and stability in southern Africa. It would be difficult to pursue this strategy without a concurrent effort to demonstrate our good faith by directly helping the people of Mozambique—which we do through our assistance to private farmers and food aid to the hungry. We are not providing military assistance to the Government of Mozambique, nor does our policy "center on" assisting the government to strengthen its position economically and militarily. Rather, we seek to relieve suffering and enhance opportunities for personal economic initiative and advancement as means of demonstrating to the government and people of Mozambique that our ideas and proposals can work to the mutual benefit of Mozambique and the Government of Mozambique's constructive role in southern African negotiations, and its movement toward the West and away from the Soviet Union.

34. Please give a complete history of Mozambican national elections, including each time President Machel and President Chissano have run on a national ballot, in a one-man, one-vote system. Please describe all the legal political parties in opposition to the current government and how open, free elections are encouraged?

A: Mozambique has held elections twice in its history, in 1977 and in 1986. A description of the 1986 elections is given in the Department of State's Country Human Rights Report for Mozambique, and in my answer to Question 44 of the first set of questions. As indicated therein, both the 1977 and 1986 elections were held within the framework of the country's one-party constitution, under which the President is elected by the Central Committee of the FRELIMO Party and opposition parties are not permitted. The 1986 elections were more open than the 1977 elections because of the fact that there were 20 per cent more candidates than seats available; non-party members were elected to office; and district, city, provincial, and national elections were conducted by secret ballot. While open, free elections as we understand them have not taken place to date, I regard it as encouraging that the 1986 elections were more open than those held previously.

36. Please justify your term "western democracy." In what sense does "western democracy" differ from Mozambique's system? Would you feel comfortable representing the United States in a system that throttles political opponents yet calls its system democratic?

A: Western democracy can be characterized as a government representative of a people as expressed through free elections based on a multi-party system and resulting in either a presidential or parliamentary system of government. These conditions do not prevail in Mozambique nor in many other countries in which the United States maintains diplomatic representation.

41. You state that RENAMO's unacceptable because of its "type of tactics" which you fantastically liken to the Red Brigades in Italy. Yet Secretary Shultz has met with the head of the Communist-controlled ANC even though he allegedly dislikes their tactics. If tactics are the problem, how can the U.S. improve RENAMO behavior without contact?

A: RENAMO's behavior and tactics raise serious questions as to whether U.S. Government contact with this organization could improve its behavior, but tactics are not the main issue in our policy of not having contact with RENAMO. Rather, the lack of credible evidence of significant popular support for RENAMO in Mozambique, the lack of evidence to substantiate its claim to be fighting for democratic principles or a credible political program of any sort, and the fact that it walked away from a nearly successful effort to reach a negotiated settlement make it far from clear what purpose would be served by U.S. contacts with RENAMO.

44. Please give a detailed history of Andrew Young's role in your nomination for this position and your contacts with him since you have been nominated?

A: I am not aware that Andrew Young played any role in my nomination. I have spoken to Mayor Young once when he telephoned last fall to congratulate me on my nomination.

47. You describe the Mozambican Government's foreign policy as "non-aligned" but give as evidence only their willingness to accept western assistance. Please explain why this factor shows non-alignment.

A. One measure of non-alignment is a consistent effort by a country to balance its East-West relationships and to avoid complete dependence on the Soviet Union and its allies. Given its obvious political, economic, and security problems, Mozambique's foreign assistance relationships are a key component of its foreign policy. Thus the GPRM's openness to relationships with the West, its readiness to encourage foreign investment in the economy, and especially its welcoming of western involvement in the critical security sector are indicative of a serious effort to maintain non-alignment.

50. You argue that Mozambican government willingness to accept U.S. AID shows an openness to the West. Please comment on the reverse assertion, that U.S. non-conditional assistance allows the Soviets effectively to continue to control most vital elements in Mozambique at Western expense? Is U.S. and other Western non-conditional AID doing the Soviets a favor?

A. The GPRM's readiness to encourage relationships with the West has not excluded any area of policy, including the sensitive security area. U.S. assistance to Mozambique is not unconditional; all U.S. assistance programs are carried out in accordance with conditions established by Congress under the foreign assistance act and other relevant legislation. I do not believe that Western assistance to Mozambique does Moscow a favor; rather it undercuts Soviet influence in Mozambique and throughout southern Africa. The amount of economic assistance accorded to Mozambique by our western allies and friends is far greater than the limited aid supplied by the U.S. Soviet economic assistance to Mozambique is relatively insignificant.

51. Can you, argue that the microscopic improvement in Mozambican government support for U.S. positions at the UN is a measurement of how that behavior "continues to improve?"

A. I do not believe that we can be indifferent to Mozambique's UN voting record. We have urged that the GPRM improve its voting record, and I intend to make this one of my highest priorities as Ambassador, if confirmed by the Senate. That said, Mozambique has not voted with the Soviets on two issues of high-priority concern to Moscow—Afhganistan and Kampuchea. These actions do represent improvement on which I will try to build during my assignment in Mozambique.

52. You state "Mozambique has broken with the Soviet Union on such international issues as Afghanistan, Cambodia and Berlin." Please be so kind as to specify Mozambique's former position and give a detailed account of the transition to its present position. Is Mozambique's present position on these issues acceptable to the United States?

A. Beginning with the 39th United Nations General Assembly (UNGA) in 1984, the Government of Mozambique has absented itself from the vote on the UNGA resolutionon withdrawal of foreign troops from Cambodia. Prior to that year, it had voted with the Soviet Union against this resolution. Starting with the 40th United Nations General Assembly (UNGA) in 1985, Mozambique has been absent from the vote on the UNGA resolution calling for withdrawal of foreign troops from Afghanistan, a switch from its previous votes against the resolution. In both instances, the Government of Mozambique explained its position as one of nonalignment, i.e. not taking either side in an issue between the U.S. and the Soviet Union. We are pleased that Mozambique changed its votes, while we hope that it will find more areas of agreement with the U.S. in future U.N. sessions.

On the Berlin issue, Mozambique signed the Lome Convention with the European Community in 1984, which includes a clause that states the Convention shall apply equally to Berlin. This is standard language in EC documents. Prior to 1984, Mozambique refused to sign the Convention because of the Berlin clause, which the Soviet Union opposes. Mozambique's decision to sign the Lome convention, which concerns trade and aid arrangements between the EC and African, Carribbean, and Pacific countries, coincided with Mozambique's decision to join the International Monetary Fund and the World Bank.

53. Mozambique evidently abstained or took a walk during key UN votes. Is this a pattern of behavior and/or can anything substantive be drawn from it? Would Mozambique prefer to take a walk than to demonstrate its alleged pro-US attitudes?

A. Abstaining or being absent is accepted U.N. voting procedure. It is a common practice for delegations from non-aligned countries at the U.N. to seek abstention or absence on a resolution if support is not possible or would embroil them in unwanted confrontation between East and West. Naturally, we strongly prefer that delegations support us but, if they cannot, we welcome their refusal to oppose us despite the inevitable pressures from the other side.

57. How much free speech and freedom of association exists in government-controlled Mozambique?

A. The State Department's 1986 Country Human Rights Report for Mozambique contains the following information on freedom of speech and association in Mozambique:

There is little tolerance for public criticism of basic government policies and officials at the national level. At the local level, especially in rural areas, there is greater openness as the people express their views on prevailing conditions. In a public meeting in Matola, for example, residents criticized the armed forces for lack of security at night.

Political opposition to the Government and to FRELIMO is not permitted. Public meetings other than purely social or recreational gatherings are controlled by the local authorities. The right of Mozambicans to come together to form voluntary associations is limited; local economic cooperatives and social organizations such as sporting groups are encouraged, but politically oriented associations are proscribed. The Government has organized several "mass movements" for women, youth, workers, etc., and utilizes them to motivate and receive "feedback" from the general population. There are also several professional associations, such as the Mozambican writers' association, which are linked to the party. Although membership in these organizations is theoretically voluntary, there is occasional pressure to join.

The formation of independent labor unions is not permitted, and strikes are forbidden. In 1983 the Government established the Mozambique Worker's Organization which was intended to function as a national labor union under FRELIMO guidance. An independent organized union movement has yet to develop, and the Mozambique Worker's Organization has little influence on economic policy or politics. There are occasional exchanges of delegations in the labor field with other countries, most often with Eastern European countries, but also with the Western nations, including the United States.

63. You argued that political liberalization is occurring in Mozambique as evidenced by candidates being elected who were not FRELIMO party members, and government's improved relations with churches. Later, in a more detailed description you acknowledge that "elections" were held under the framework of the country's one-party constitution and that FRELIMO drew up single slates of candidates. You further explained that this process "did offer the Mozambican people a greater measure of choice than ever before and an opportunity to express their views." Please explain this apparent contradiction.

A. I do not see a contradiction. The fact that slates of candidates were reviewed with the citizenry prior to the election, that critical exchanges occurred between local electoral candidates in election meetings, that there were more candidates than seats, that candidates who were not party members were elected, and that the secret ballot was used for district, city, provincial, and national elections all indicate that the 1986 elections offered voters a greater measure of choice and a chance to express their views compared to earlier elections. As I said in my response to Question 34 of this set of questions, while open, free elections as we understand them have not taken place to date, I regard it as encouraging that the 1986 elections were more open than those held previously.

65. Please give a list, by party affiliation, of the members of the Mozambican National Assembly.

A. No accounting of members of the Mozambican National Assembly by party affiliation is available. Mozambique is a one-party state. Of the 299 members of the assembly, most are members of FRELIMO. However, we understand that as many as 25-35 percent of those elected to the People's assemblies at all levels were not members of the party; they are members of no party.

66. There are frequent references to official media sources of the Mozambican government in your testimony. Do you believe that the media in Mozambique is free?

A. The State Department's 1986 Country Human Rights Report for Mozambique, which I consider a reliable assessment, gives the following information on freedom of the media in Mozambique:

The Government exerts either tacit or de facto control over all authorized publications in the country, ranging from the radio and experimental television facilities to the nominally independent daily Noticias. Although the media promote the Government's general philosophy and its positions on issues, there is controlled reporting on abuses within the system or flaws in the implementation of government policies in those areas where the Government has admitted to errors or wishes to initiate changes. Magazines and newspapers frequently contain articles or letters to the editor complaining about the lack of goods and social services or the ineffectivness of a particular official. During August and September, the media reported a number of critical exchanges between local electoral candidates and voters.

75. What "strings" are attached to Soviet and Soviet Bloc assistance to Mozambique's Marxist Government? This is particularly interesting since U.S. assistance appears to be unconditional. Do you believe the Soviets get more for their investment in Mozambique than the west does? Please be very specific.

A. Soviet military assistance has been provided to the Government of Mozambique on a strictly business basis. The Mozambicans have to pay for the arms they receive, albeit with low interest rates. I am not aware of any particular "strings" attached to Soviet economic or military aid. The Soviets appear to be trying to use the leverage provided by their military supplier role to maintain access to the minerals sector, but the fact of growing U.S. involvement in this sector indicates that the Soviets extract no specific concessions for their military aid. Moscow receives some political support from the Government of Mozambique in return, but even this has eroded over the past several years as indicated by altered Government of Mozambique votes on Afghanistan and Kampuchea, and the Mozambican leadership's markedly toned-down rhetoric in support of Soviet positions on international issues. While U.S. assistance is not strictly conditional, we are using the commodity import program to support specific objectives in encouraging growth of the private sector.

78. Are you under specific instructions not to be in contact with RENAMO if you are confirmed? Please supply relevant documents.

A. It is longstanding U.S. policy not to have contacts with RENAMO. If confirmed by the Senate, I will act in accordance with that policy.

102. You indicate that "(T)his Administration does not provide assistance to governments seeking to destabilize neighboring countries." Yet Machel crash documents indicate just such a conspiracy against Malawi. Would the U.S. be prepared under any circumstances to suspend assistance to Mozambique and others if that plot developed? Isn't Malawi one of our most reliable western allies in the region?

A. This Administration has consistently condemned cross-border violence wherever it has occurred in southern Africa, and any such act would undoubtedly have a negative impact on our relations with the perpetrator. I would agree that Malawi is a close and reliable friend of the U.S., and we are quite pleased that the Governments of Malawi and Mozambique have signed agreements on economic and security cooperation and taken other steps to improve their relations.

109. Your predecessor and an Embassy officer "were told" that all camps were shut down and "detainees released." Who told them this? Is there a difference between a "detainee" and someone eligible for rehabilitation. Is there a detainees Support Committee in Mozambique, as in South Africa, or how else does the U.S. Embassy verify information?

A. The source for the statement that camps had been disbanded was a provincial official speaking only of his province (Niassa). The rehabilitation centers mentioned in my previous response appear to take in insurgents who have been captured by local forces. As the 1986 Human Rights Report noted, there are believed to be about 4,000 to 5,000 RENAMO detainees held by the government. To what extent they undergo rehabilitation is unclear. There is no detainee support committee in Mozambique. Embassy officers keep in touch with government officials, international organizations, religious groups, and other sources in order to monitor the human rights situation.

112. How many "regular prisons" exist in Mozambique? Where are they? How many inmates are there? Please supply additional data on "crimes" committed which can lead to imprisonment?

A. The exact number of "regular prisons" in Mozambique is not known. Each provincial capital has a prison, and Maputo area has a central prison at Machava as well as a smaller one in town. According to the press, much of the prison population is composed of those who have committed crimes such as theft, assault, etc. The size of the prison population numbers in the thousands, but the exact number is unknown.

113. Are there political prisons in Mozambique? How many prisoners of conscience are there in Mozambique?

A. I understand that there are prisons for political prisoners in Mozambique. According to Amnesty International, there were 4,000 to 5,000 RENAMO detainees at the beginning of 1986, a figure which the government has publicly acknowledged.

114. Give a detailed description of the legal process in Mozambique. Describe its legal code. Is there a provision for trial by jury? What rights do defendants have prior to and during trial? How are judges selected? Are there any "people's tribunals" such as in Nicaragua, Cuba, and other Marxist, scientific socialist countries?

A. As described in the 1986 Human Rights Report, "Nonpolitical trials conducted by the regular civil/criminal court system are generally fair and are held in public. At the local level they are often conducted in a public place in the village where the crime

was allegedly committed to encourage public attendance and participation. The proceedings are conducted by a trained representative of the Ministry of Justice, assisted by two or four popularly elected "judges." Elected "judges" are chosen by regional assemblies to serve temporarily—sometimes up to two years—in the court system. Afterwards, they return full-time to their normal job or profession—auto mechanic, teacher, farmer, or whatever. These judges, however, do not have the right to impose jail sentences. This is done by district courts. "Since the legal knowledge of those involved is limited, they are instructed to exercise common sense and to apply locally accepted principles. These courts can handle only minor offenses; more serious crimes are judged in People's Courts at the district and provincial levels. District and provincial trials are also open to the public, except in certain cases such as rape, where the defendant can request a closed trial. Persons convicted of a serious crime have the automatic right of appeal to the next higher court. There is a Superior Court of Appeals in Maputo."

"Prisoners charged with crimes against the State are tried by the Revolutionary Military Tribunal. These trials are held in camera, and there is no recourse of appeal. In general, treatment of RENAMO prisoners is not known. However, there is a model prison for them in Inhambane where they receive training in various skills. The length of detention of such prisoners is not known.

Trial by jury is a concept originating in English common law and hence usually found only in the English speaking world. Trial by jury is not a concept basic to the Napoleonic Code on which the legal codes of continental Europe are based, and which was used by the former colonial power in Mozambique, Portugal. Hence, there is no trial by jury in Mozambique. However, every defendant has the right to a lawyer or defense counsel in court. Ministry of Justice lawyers handle cases as there is no private law practice.

As cited above, crimes against the State are tried by the Revolutionary Military Tribunal. It is not clear that the militiary tribunal is the same as "people's tribunals" as referred to in the question. If confirmed as ambassador, as part of my concern for the human rights situation in Mozambique, I will attempt to learn more about the workings of the Revoluntionary tribunals.

118. What is the percentage of Mozambique's total budget received from foreign bilateral and multilateral assistance? Please compare this percentage to El Salvador.

A. According to the IMF, net foreign financing (grants and loans combined) covered 26 percent of Mozambique's central government expenditures and net lending in 1985. In 1986, the IMF estimates that net foreign financing covered 30 percent of central government expenditures and net lending.

For El Salvador, according to the IMF, net foreign financing (grants and loans) covered 12.7% of the non-financial public sector expenditures and net lending in 1985 and 17.9% in 1986.

119. Are average citizens of El Salvador freer than citizens of Mozambique—or not so free?

A. Net assessments of this kind are exceedingly difficult to make. However, it is possible to use annual Country Reports on Human Rights Practices as one yardstick to compare different countries. The reports for El Salvador and Mozambique for 1986 are attached. In general, when evaluating the two reports, it is apparent that as violence has declined in El Salvador, the ability of the central government to provide for respect of its citizens has increased. The U.S. has sought and will continue to seek a decrease in bloodshed and turmoil in Mozambique with confidence that improved security will lead to an improved situation for the citizens of Mozambique.

120. Please supply a list of key Mozambican government personnel who are communists. Are the rest Marxists or scientific socialists? Finally, is there lively political debate within the government?

A. President Chissano and other Mozambican government ministers describe themselves as Mozambicans, nationalists, Africans, and socialists. They do not use the term communist. It is our understanding that very lively political exchanges take place at meetings of the Central Committee, Politburo, and the Council of Ministers. In addition, at the meeting of the new national assembly in January there was lively debate on the implications of the government's economic rehabilitation program, with a number of delegates expressing concern over the planned cutback in subsidies for social services, and a number of members voting against particular economic proposals.

122. Do you believe "constructive engagement" enjoys widespread public and congressional support? If not, why not?

A. During the past year our policy toward southern Africa was the subject of a contentious debate in Congress. That debate was not about our fundamental objectives, but about the means to achieve those objectives. U.S. policy seeks to promote peaceful solutions to southern Africa's problems. We seek to help South Africans move toward a new, democratic South Africa that respects the rights and promotes the opportunities of all its people. In Southern Africa as a whole, we are committed to playing our proper role in creating alternatives to destructive confrontation. We will continue our efforts to help resolve long-festering conflicts that complicate regional development efforts. I am convinced that this approach to U.S. policy in Southern Africa enjoys strong support in Congress and among the American people.

123. Can "constructive engagement" succeed in Mozambique unless there is greater political freedom and economic opportunity for each Mozambican? Must "constructive engagement" be bought in Mozambique through foreign assistance?

A. No American policy can be successful in any country if it does not strongly support freedom and economic opportunity for all citizens of the country in question. Our policy in Mozambique has forthrightly sought these goals. It will certainly do so as long as I am the U.S. Ambassador to that country. Because Mozambique's record has improved in these areas, our bilateral relations have improved. U.S. assistance can play an important role in demonstrating tangible U.S. support for constructive policy trends of this kind. I hope these trends continue, and I will do everything in my power to see that they do.

148. Does U.S. humanitarian, developmental, or programmed ESF assistance flow, directly or indirectly, to communal villages, resettlement camps, or re-education camps?

A. Developmental and programmed ESF assistance to Mozambique flows through the private sector rehabilitation program, which targets private (family and commercial) farmers' cooperatives in Chokwe, Xai-Xai, and Maputo Province. Two evaluations and continual monitoring have documented that the Government of Mozambique is in compliance with the end-use targeting convenant of the four grant agreements. To our knowledge, no assistance from either DA or ESF has flowed directly or indirectly to communal villages, resettlement camps, or re-education camps.

As regards humanitarian assistance (OFDA, African supplemental, P.L. 480, and section 416), some beans and vegetable oil, provided through World Vision, is being provided to populations dislocated by the rural insurgency. These people are located in Tete (Moatize, Benga, and Zobue) in temporary reception centers for returning refugees from Malawi. The government maintained—and we have verified—that these people have voluntarily returned to Mozambique. There are some communal villages receiving U.S. food assistance. These were set up in 1983 and 1984 to provide protection for rural populations dislocated by insurgent activity in Hambane. Villagers walk to their fields and work their land during the day and return at night to communal village safety. No food assistance that we know of is reaching any "re-education" camps.

150. Is it your general impression that it is humane to move "about 100,000 unemployed people from Maputo" during "Operation Production"?

A. No.

151. Do you personally believe the 100,000 allegedly unemployed people were forced into exile in the country because of failed Mozambican government policy?

A. It is not clear to me why the Government of Mozambique undertook this policy, but it is clear that it stopped "Operation Production" in 1984 and has not repeated it.

153. Since 1983, please give a complete report of Embassy officer tracking of the victims of "Operation Production."

A. "Operation Production" occurred during the first half of 1983 when about 100,000 unemployed people were moved from Maputo to the provinces to engage in agriculture. The government quickly abandoned this project of forced resettlement, admitting that it had been a failure. Most of those relocated have since returned to Maputo. While the Embassy reported on "Operation Production" and its failure, there was not to the best of my knowledge any tracking of the individuals involved.

156. You correctly cite the decline in economic production annually since 1981, but you have not assessed the role of Mozambican government policy (only "mismanagement"). Please do so and what specific policy reforms promise a better life for Mozambicans in the future.

A. There is no doubt that past policies of the Mozambique government have largely failed. The government itself is quite open and frank in this admission and very pragmatic in its search for viable solutions. The government has begun a serious economic reform program in an attempt to begin to turn the situation around. The start of a major devaluation, credit restrictions on parastatals, a breaking up of state farms, decontrol of agriculture prices, restrictions on public expenditures, and lay-offs of excess public employees and support for the private sector are examples of reforms that are underway. Still, turning the Mozambican economy around will not be a quick process and the continued destruction of the country's infrastructure and the insecurity throughout the countryside will seri-

ously delay that process and limit the potential impact of the reform effort.

158. Is it fundamentally unfair or inaccurate to characterize Mozambique's political orientation as Marxist-Leninist?

A. The GPRM describes itself as "Marxist-Leninist" and President Chissano has reiterated that term in recent public statements. The U.S. is concerned about this ideological identification of the Government of Mozambique with Marxist-Leninism. To be accurate in assessing the ideological identification of the government, it is important to take into account recent specific policy areas in which the GPRM has moved away from the Soviet Union. The policies that we are supporting in that country are those that encourage private enterprise and development, a clearly non-Marxist vision for progress and human rights.

166. How many party members are there in Mozambique? What percentage is that of the total population?

A. The latest public figures we have seen are from the Fourth Party Congress in 1983, when it was stated that there were 110,000 party members and candidates (less than one for every 100 citizens).

167. What privileges are permitted solely to party members in Mozambique?

A. As far as we can determine, party members have no unique privileges. They have, for example, tax free benefits, but these are also accorded to others as, for example, former fighters in the liberation struggle.

168. How is party discipline carried out on Mozambique?

A. High level officials of the party are almost never expelled, but rather relegated to lesser positions from time to time. There is a party "control commission" which is charged with monitoring party discipline. Discipline of party officials is more often carried out as punishment for regular criminal acts (or sexual indiscretions) than for political reasons. Discipline is carried out by the regular party structures.

175. Please describe "indirect" balloting for district, city, provincial and national constituencies. Would you personally describe this system as democratic? Pluralist? Free?

A. "Indirect" balloting means that persons elected directly by the people in village and city elections were responsible for electing representatives for district assemblies, persons elected to district assemblies voted for representatives to provincial assemblies, and then these provincial representatives elected representatives to the national assembly. I would not describe this as entirely democratic, pluralist, or free.

176. Does Mozambique have a secret police? If people express their views are they likely to become intimately acquainted with this group?

A. Mozambique has a secret police, the Servizo Nacional de Seguranza Popular (SNASP), which has jurisdiction over both political and economic (sabotage) crimes against the state. As indicated in the State Department's 1986 Country Human Rights Reports for Mozambique, there is some tolerance for criticism of government services where the government has admitted to errors or wants to initiate changes, but there is little tolerance for public criticism of basic government policies and officials at the national level. Persons who challenge the latter run the risk of being accused of political crimes and becoming subject to the jurisdiction of SNASP.

179. Please give as much information as you can on Mr. and Mrs. William Sullivan. Of special interest is whether they are registered agents of the Mozambican government.

A. I met Mr. and Mrs. Sullivan last fall and have been in touch with them in order to inform myself with regard to their efforts to encourage private U.S. investment in Mozambique. The Department of Justice informs me that they are not registered agents of the Mozambican Government. Please also see Question 46 of last week's questions for information.

184. What do you believe is the greatest challenge facing you in your efforts to be confirmed to this ambssadorial post?

A. The greatest challenge is the debate on the President's policy towards Mozambique.

194. What relationship have you had historically, and meetings or consultations have you had with Eduardo Mondlane, Jr. or SOCIMO? Is SOCIMO or Mr. Mondlane registered as agents under the Foreign Agents Act? Provide complete details.

A. I have not met Mr. Eduardo Mondlane, Jr. nor have I contacted SOCIMO. The Department of Justice informs me that Mr. Mondlane is not registered as an agent under the Foreign Agents Act.

195. You stated that the Mozambique Business Council "has not been involved in political activities in the United States." Are you aware of a breakfast scheduled with Congressional staff in October, 1986, when the Director of the MBC sponsored then Foreign-Minister Chissano's meeting, the purpose of which was to explain Mozambique's "economic redirection," and interest in pursuing western financial assistance?

A. As I stated in my reply to question #46 of the previously submitted package, the Mozambique Business Council "has hosted meetings between Mozambique officials and congressional staff." I have no personal knowledge of the specific meeting about which you have asked.

196. Mr. Sullivan also helped to promote Chissano's meetings with State and NSC officials at the time, and Sullivan mentioned his accompaniment to Mozambique with Melvin Laird, the purpose of which was to initiate western business, and particularly, governmental endorsement for increased U.S. financial operations in Mozambique. Please provide a description of State Department efforts to promote U.S. investment in Mozambique, as well as an explanation of the origin of the Laird Delegation trip to Mozambique and any follow-up.

A. The State Department has provided informal briefings and information to American business representatives who inquire about Mozambique, and has advised them of services provided by other agencies, such as the Department of Commerce, AID's Trade and Development Program, and the Overseas Private Investment Corporation. The State Department invited Melvin Laird to lead a business mission to Mozambique in April 1985 as a result of the improvement of relations between the U.S. and Mozambique, in response to business interest because of the new foreign investment law enacted by the government of Mozambique in 1984, and in response to the Government of Mozambique's interest in attracting new foreign investment. A State Department representative accompanied that mission and the U.S. Embassy in Maputo assisted with arrangements for the mission. However, the mission was organized by its private sector participants. As a result of the mission, one American company (Edlow Resources, Ltd.) has signed a mining agreement with the Government of Mozambique and other companies are actively pursuing investments there. The State Department has continued to provide information on the situation in Mozambique to these companies as they request it.

Mr. President, I yield the floor.

[CONFIRMATION OF MELISSA WELLS AS AMBASSADOR TO MOZAMBIQUE]

Mrs. KASSEBAUM. Mr. President, I believe it is important that we confirm Ms. Melissa Wells as Ambassador to Mozambique.

Mozambique is a crucial diplomatic post in southern Africa, both because of Mozambique's role in planned efforts to develop the region economically and because of the serious problem of famine inside the country, where the United States is playing the lead role in emergency relief.

We have been without an ambassador in Mozambique for several months. Secretary of State Shultz feels that it is vital that we have a representative in Mozambique as soon as possible, and so do I.

Melissa Wells is an experienced and highly qualified diplomat, and I urge her prompt confirmation.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I will ask the able Republican leader if the three Calendar Orders numbered 102, 103, and 104 have been cleared on his side of the aisle.

Mr. DOLE. They have been cleared.

Mr. BYRD. I thank the leader.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders numbered 102, 103, 104, that they be considered en bloc, agreed to en bloc, adopted en bloc, and that the motion to reconsider and the motion to lay on the table be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRATUITY TO GLORIA S. GARNER

The resolution (S. Res. 198) to pay a gratuity to Gloria S. Garner was considered, and agreed to; as follows:

S. RES. 198

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Gloria S. Garner, widow of Wil-

liam F. Garner, Sr., an employee of the Senate at the time of his death, a sum equal to eleven and one-half months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO MARGARET C. MITCHELL

The resolution (S. Res. 199) to pay a gratuity to Margaret C. Mitchell was considered, and agreed to; as follows:

S. RES. 199

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Margaret C. Mitchell, mother of Dorothy M. Mitchell, an employee of the Senate at the time of her death, a sum equal to six and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO WILLIAM MACKLIN

The resolution (S. Res. 200) to pay a gratuity to William Macklin was considered, and agreed to; as follows:

S. RES. 200

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to William Macklin, nephew of William J. Wooten, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of his death, a sum to equal six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

RESOLUTION CALLING FOR THE RELEASE OF POLITICAL PRISONERS BY THE GOVERNMENT OF VIETNAM

Mr. BYRD. Mr. President, on behalf of Mr. KENNEDY, for himself, and Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. HELMS, Mr. DURENBERGER, and Mr. HATFIELD, I send a resolution to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 205) calling for the release of political prisoners by the Government of Vietnam.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. KENNEDY. Mr. President, I am pleased to join today in proposing a resolution to focus renewed attention on one of the utmost urgent humanitarian issues in the aftermath of the Vietnam war—the continued plight of political prisoners in Vietnam and the problem of family reunification.

Last night, Senator DOLE and I had the privilege to attend a reception here in the Capitol organized by a coalition of Vietnamese refugee groups to mark the 12th anniversary of the fall of Saigon. But, more important, they reminded us of the plight of the thousands of Vietnamese refugees who continue to be separated from their family members still in Vietnam.

More tragic still, they focused our attention on family members who have languished for the past 12 years as political prisoners in Vietnamese jails—so-called "political reeducation centers."

Many humanitarian issues are compelling, but none more so than the plight of these political prisoners.

We need to break the diplomatic logjam that has thwarted any real progress in addressing these humanitarian issues. This resolution calls for that action. It asks the Government of Vietnam to do what it has already publicly said it is willing to do—to release political prisoners and permit them to resettle abroad or join their families in other countries.

It calls upon Vietnam to do what it agreed to do when it negotiated and signed the orderly departure agreement with the United Nations High Commissioner for Refugees in 1979—to process and give exit visas to family reunification cases.

I am pleased to join in directing the attention of Congress to these critical humanitarian problems, and I urge the Senate to adopt this resolution.

I ask unanimous consent that a very timely and thoughtful editorial on this subject, published today in the Washington Post, may be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 1, 1987]

HANOI'S BROKEN PROMISE

Just three years ago the communist government of Vietnam promised to release to the United States all the Vietnamese still incarcerated in "reeducation camps" as a result of their service in the South Vietnamese regime associated with the Americans. Three years later, not a single one of these unfortunate people has been released and allowed to leave the country with their dependents under the amnesty pledged at that time.

These several thousand Vietnamese are the senior people remaining from a larger group caught up after the fall of Saigon in 1975. They were not accused of committing war crimes in the usual sense. They had simply held official positions in civilian and military branches under the old order. They are political prisoners, and they have endured an unimaginable ordeal in the camps. Says Khuc Minh Tho, the leader of a support group of their kin in the United States: "We do not think that belonging to a vanquished regime is a crime. But even if our relatives have committed 'crimes' under the new government's law we think 10 years of imprisonment is enough punishment for those who have sinned."

Soon after then-premier Pham Van Dong promised to free the prisoners, reports started being heard of Hanoi's provocative demand that the United States put a political leash on the prospective new arrivals to keep them from somehow acting against Vietnam. But it is extremely farfetched to imagine that these people could, even if they would, add any discernible weight to the political scales—scales on which the Vietnamese presence in the United States rests very lightly in any event. More recently, Hanoi has simply refused to address the question of the prisoners, and it altogether stopped permitting the emigration even of non-prisoners in January 1986.

In December 1986, Hanoi started a process of leadership renewal and policy review whose significance for matters like this one remains to be demonstrated. Still, if there is any inclination in Vietnam to signal that things are changing, the authorities should consider that nothing would come through to Americans more clearly—along with a resolution of the MIA issue and an end to the occupation of Cambodia—than the prompt release of political prisoners. Hanoi's current policy stands as a glaring example of Vietnamese bad faith.

Mr. DOLE. Mr. President, yesterday marks the 12th anniversary of the end of the Vietnam war.

Entirely apart from any political considerations surrounding the outcome of that war or the question of our political relations with Vietnam, there are three major humanitarian issues that ought to be resolved immediately: The POW/MIA issue; the refugee issue; and the issue of political prisoners still held in Vietnam.

The main reason these issues have not been resolved is that the Vietnamese authorities—and their allies in Kampuchea and Laos—have refused to cooperate in their resolution. Instead, the Hanoi authorities have callously and cruelly played international politics with the lives of countless thousands of innocent people.

It is as simple, and sad, as that. And it is time that we called the Vietnamese authorities to account for their barbarous behavior.

I have spoken elsewhere, and will again be speaking in the future, on the POW/MIA and refugee issues. Today, I want to speak briefly on the political prisoner issue. And, together with Senator KENNEDY, I want to introduce a resolution dealing with this subject.

Today, together with Senator KENNEDY, we have introduced this resolution, along with the distinguished majority leader and a number of other Senators, just to call attention to this fact. A number of us lament that some of the Vietnamese have been in this country for 12 years and longer, some a lesser time, and many waiting to have family members be reunited with them. And they are thwarted at every turn by the Hanoi government.

The facts are simple. When North Vietnam overran South Vietnam in 1975, it threw in jail tens of thousands of South Vietnamese. The main

"crime"—and the word "crime" is in quotes—the "crime" was that these people had supported the South Vietnamese Government—their Government—against the North Vietnamese aggression. For that, they were thrown into jail.

And today, a dozen years after the war ended, at least 6,000—by the Vietnamese own admission—still remain in jail. The Vietnamese call these jails reeducation camps. Knowledgeable, honest people call them concentration camps.

These people have committed no crimes. There are no threat to the political system in South Vietnam. By most accounts, after a dozen years of Communist imprisonment, they are barely alive. There is no earthly reason why they should not be freed—to return to their families or, in the case of those with close relatives in the United States, to come here.

The resolution which Senator KENNEDY and I introduce today calls upon the Vietnamese to release these prisoners, and to expedite all family reunification cases still outstanding between our two countries. It is totally nonpolitical; certainly, in our political terms in the Senate, it is totally nonpartisan. All Senators ought to support it.

This is the 12th anniversary of the end of the war. With this action, and with the acceleration of strong, international pressure on Vietnam to do what is right, let us hope that this issue will no longer be with us next year, when we mark the 13th anniversary.

Mr. President, it would seem to me, and I think that was the plea made last night by those who were attending this very important event, that we do have some responsibility. I am not certain this resolution will have any great impact, but at least it will be a recognition on the part of the U.S. Senate that we are aware of the problem and willing to help in every way possible.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 205) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 205

Whereas twelve years have passed since the end of the Vietnam war, yet thousands of Vietnamese remain held as political prisoners and many thousand more divided from their families in the United States and other countries;

Whereas the Government of the Socialist Republic of Vietnam has a responsibility to observe international standards of human rights;

Whereas the Government of the Socialist Republic of Vietnam has committed itself to releasing political prisoners to be resettled abroad; and

Whereas the Government of the Socialist Republic of Vietnam has signed an agreement with the United Nations High Commissioner for Refugees to assist in the reunification of families: Now, therefore, be it

Resolved by the Senate, That the Government of the Socialist Republic of Vietnam should immediately release all political prisoners held as a result of their previous association with the Government of South Vietnam prior to 1975;

That the Government of the Socialist Republic of Vietnam should fulfill its commitment to negotiate their humane resettlement abroad or to rejoin family members outside of Vietnam; and

That the Government of the Socialist Republic of Vietnam should immediately resume processing of family reunification cases under the United Nations High Commissioner for Refugees' Orderly Departure Program.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, May 1, 1987, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 57. Joint resolution to designate the period commencing on May 3, 1987, and ending on May 10, 1987, as "National Older Americans Abuse Prevention Week"; and

S.J. Res. 67. Joint resolution to designate the month of May 1987 as "National Digestive Diseases Awareness Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 1827. A bill making supplementary appropriations for the fiscal year ending September 30, 1987, and for other purposes (Rept. No. 100-48).

By Mr. GLENN, from the Committee on Armed Services, without amendment:

S. 12. A bill to amend title 38, United States Code, to remove the expiration date for eligibility for the educational assistance programs for veterans of the All-Volunteer Force; and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary:

Bohdan A. Futey, of Ohio, to be a judge of the U.S. Claims Court for the term of 15 years;

David Bryan Sentelle, of North Carolina, to be U.S. circuit judge for the District of Columbia Circuit;

Reena Raggi, of New York, to the U.S. district judge for the eastern district of New York;

Ronald S.W. Lew, of California, to be U.S. district judge for the central district of California;

Richard J. Danonco, of New York, to be U.S. district judge for the southern district of New York;

David S. Doty, of Minnesota, to be U.S. district judge for the district of Minnesota;

J. Keith Gary, of Texas, to be U.S. Marshal for the eastern district of Texas for the term of 4 years;

Earl L. Rife, of Ohio, to be U.S. Marshal for the northern district of Ohio for the term of 4 years;

Dwight G. Williams, of Mississippi, to be U.S. Marshal for the northern district of Mississippi;

Robert W. Foster, of Ohio, to be U.S. Marshal for the southern district of Ohio for the term of 4 years; and

Wilkes C. Robinson, of Kansas, to be a judge of the U.S. Claims Court for the term of 15 years.

By Mr. BOREN, from the Select Committee on Intelligence:

William H. Webster, of Missouri, to be Director of Central Intelligence.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 1118. A bill to help prevent rape and other sexual violence by prohibiting dial-a-porn operations; read the first time.

By Mr. SPECTER:

S. 1119. A bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979; to the Committee on Finance.

By Mr. MELCHER:

S. 1120. A bill to amend the Mineral Lands Leasing Act of 1920 to improve the administration of the Federal Coal Leasing Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 1121. A bill to require the General Accounting Office to audit the Board of Governors of the Federal Reserve System, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve banks and their branches; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DASCHLE:

S. 1122. A bill to amend the Federal Meat Inspection Act to impose reciprocal inspection requirements for imported meat articles under certain conditions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER:

S. 1123. A bill to control air emissions which are precursors of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SIMON:

S. 1124. A bill to amend title 18, United States Code, to require that telephone mon-

itoring by employers be accompanied by a regular audible warning tone; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 1125. A bill to amend title 38, United States Code, to authorize modification of the structure of the Office of the Chief Medical Director, to clarify procedures for removal for cause of certain employees, to authorize the use of the Director Pay Grade within VA Central Office and for related purposes; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 1126. A bill to designate the border station at 9931 Guide Meridian, Lynden, WA, as the "Kenneth G. Ward Border Station"; to the Committee on Finance.

By Mr. TRIBLE (for himself, Mr. SPECTER, and Mr. HEINZ):

S.J. Res. 121. Joint resolution designating August 11, 1987, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY (for himself, Mr. BURDICK, Mr. PELL, Mr. CRANSTON, Mr. BENTSEN, Mr. WEICKER, Mr. CHILES, Mr. JOHNSTON, Mr. BUMPERS, Mr. LEAHY, Mr. METZENBAUM, Mr. CHAFEE, Mr. RIEGLE, Mr. SARBANES, Mr. MOYNIHAN, Mr. LEVIN, Mr. MITCHELL, Mr. DODD, Mr. D'AMATO, Mr. WILSON, Mr. LAUTENBERG, Mr. SIMON, Mr. GORE, Mr. ROCKEFELLER, Mr. ADAMS, Ms. MIKULSKI, Mr. FOWLER, and Mr. GRAHAM):

S. Res. 204. Resolution to express the sense of the Senate regarding funds provided by the Anti-Drug Abuse Act of 1986; to the Committee on Labor and Human Resources.

By Mr. BYRD (for Mr. KENNEDY (for himself, Mr. DOLE, Mr. PELL, Mr. HELMS, Mr. DURENBERGER, Mr. BYRD, and Mr. HATFIELD)):

S. Res. 205. Resolution calling for the release of political prisoners by the Government of Vietnam; considered and agreed to.

By Mr. DURENBERGER (for himself, Mr. DOLE, Mr. DANFORTH, Mr. MCCAIN, Mr. WALLOP, Mr. WILSON, Mr. MOYNIHAN, and Mr. HEINZ):

S. Con. Res. 56. Concurrent resolution expressing the sense of Congress that no major change in the payment methodology for physicians' services, including services furnished to hospital inpatients, under the Medicare Program should be made until reports required by the 99th Congress have been received and evaluated; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1118. A bill to help prevent rape and other sexual violence by prohibiting dial-a-porn operations; read the first time.

(The remarks of Mr. HELMS and the text of the legislation appear earlier in today's RECORD.)

By Mr. SPECTER:

S. 1119. A bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979; to the Committee on Finance.

PROTECTION OF SOCIAL SECURITY BENEFITS FROM "NOTCH" EFFECT

Mr. SPECTER. Mr. President, today I am reintroducing legislation to amend title II of the Social Security Act, to restore benefit equity to those members of our society born between 1917 and 1921, the so-called notch babies.

Last fall, I delivered the welcoming address at the National Convention of the Gray Panthers, in Chevy Chase, MD. At that time, I emphasized to the organization that Congress recognizes and responds to the needs of the Nation's elderly, at least in part because of the dilligence and perseverence of senior citizens groups like the Gray Panthers, the American Association of Retired Persons, and others.

Senior citizens across the country have mobilized to protect and preserve their benefits from the budget ax, and to recoup those Social Security benefits lost due to a gross error in the automatic benefit increase provision enacted in 1972.

The bill I am introducing today is designed to eliminate the disparity resulting from changes made in 1977 in the benefit computation formula. This bill is identical to one I introduced in the last Congress, S. 2892.

In 1977, Congress approved a plan designed to eliminate a perceived over adjustment for inflation contained in the then-existing plan. This provided a new benefit formula for workers born after 1916. To protect people from an abrupt change in benefits, a transition formula was included in the new plan. This transition formula would have provided for a smooth changeover by dividing Social Security beneficiaries into three categories: Those born before 1917, those born between 1917 and 1921—the notch years—and those born after 1921.

The transition formula failed. Supporters of the plan knew benefits under the new plan would be lower—that was the idea—but they grossly underestimated the disparity they would be creating for the notch babies. Under the formula, benefits were supposed to be 5 to 7 percent less than those projected under the 1972 law. Instead, workers with the same earnings record, retiring at the age of 65, and born only a few days apart, one in 1916 and one in 1917, experienced a difference in benefits of up to $1,300 a year.

Mr. President, I ask unanimous consent that the text of the Social Security benefit table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF INITIAL SOCIAL SECURITY BENEFIT AMOUNTS FOR VARIOUS RETIRED WORKERS IN IDENTICAL CIRCUMSTANCES EXCEPT DATE OF BIRTH

	Born in Dec. 1916 (subject to old rules)	Born in Jan. 1917 (subject to new rules) [5]	Difference
Workers retiring at age 62 in January 1979:			
Minimum wage [1]	$206.70	$203.50	−$3.20
Average wage [2]	312.80	306.50	−6.30
Maximum wage [3]	395.70	388.90	−6.80
Workers retiring at age 63 in January 1980:			
Minimum wage	254.00	242.30	−11.70
Average wage	388.90	365.00	−23.90
Maximum wage	493.50	463.10	−30.40
Workers retiring at age 64 in January 1981:			
Minimum wage	324.60	298.20	−26.40
Average wage	500.30	449.40	−50.90
Maximum wage	635.70	570.10	−65.60
Workers retiring at age 65 in January 1982:			
Minimum wage	400.10	355.30	−44.80
Average wage	623.70	535.40	−88.30
Maximum wage	789.90	679.30	−110.60
Workers retiring at age 66 in January 1983:			
Minimum wage	449.00	392.00	−57.00
Average wage [4]	716.00	592.00	−124.00
Maximum wage	900.00	755.00	−145.00
Workers retiring at age 67 in January 1984:			
Minimum wage	486.00	421.00	−65.00
Average wage [4]	773.00	637.00	−136.00
Maximum wage	990.00	826.00	−164.00

[1] Worker had earnings equal to 2080 times the hourly Federal Minimum Wage in each year.

[2] Worker had earnings in each year equal to the annual average wage figure used for indexing Social Security benefits.

[3] Workers had earnings equal to the Social Security contribution and benefit base in each year.

[4] Average wages for 1982 and 1983 are based on the alternative II-B intermediate economic assumptions in the 1983 Social Security Trustees Report.

[5] Assumes date of birth of January 2 so worker is eligible for benefits in January.

Source: Social Security Administration Office Of Legislation and Regulatory Policy, September 15, 1985.

Mr. SPECTER. Mr. President, the Social Security Administration reports that, of the 21 million Americans currently eligible for retirement benefits, approximately 7.9 million are and will be affected by the notch disparity.

In addition the agency predicts that, for each year after 1986, 1.5 million persons eligible for these benefits will be affected.

The failure of the transition guarantee to protect those born in the notch years is due primarily to two provisions of the formula. First, post-age 62 earnings of people born after 1916 are excluded when calculating the benefits for these workers. Second, benefit increases occurring before the year a worker reached age 62 are not factored into his or her initial benefits, as they would have been under the former rules.

Two bills, introduced in the last Congress were aimed at addressing these two limitations in an effort to correct the "notch baby" inequity. Neither bill, however, addressed both limitations. The bill I am introducing today incorporates the best provisions of each of these two bills and thus addresses the notch problem in a comprehensive fashion. It removes the re-

striction on including post-age 62 earnings in the computation of benefits, like Senator GRASSLEY's bill. It also effectively negates the provision denying notch babies the same benefit increases other retirees enjoy and provides for a lump-sum retroactive payment for those who have not been allowed to factor in benefit increases since 1979, like Senator D'AMATO's bill.

The time has arrived for us to restore benefit equity and send a strong message to senior citizens that this body will preserve and protect all benefits which our elderly so richly deserve.

Mr. President, I ask unanimous consent that the text of the bill be entered in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 215(a)(4) of the Social Security Act is amended—

(1) by striking out "who had wages or self-employment income credited for one or more years prior to 1979" in subparagraph (B) and inserting in lieu thereof "who has 27 or more quarters of coverage based on wages and self-employment income credited for years prior to 1979";

(2) by striking out "prior to 1984" in clause (i) of subparagraph (B) and inserting in lieu thereof "after December 1978";

(3) by inserting "as in effect in December 1984" after "section 215(d)" in clause (ii) of subparagraph (B); and

(4) by striking out the last sentence.

(b) The first sentence of section 215(a)(5) of such Act is amended—

(1) by striking out "(other than an individual described in paragraph (4)(B))";

(2) by striking out "except that," and inserting in lieu thereof "except that (A)"; and

(3) by inserting before the period at the end thereof the following: ", and (B) in the case of an individual described in paragraph (4)(B), such individual's average monthly wage shall be computed as provided by subsection (b)(4)".

SEC. 2. Section 215(b)(4) of the Social Security Act is amended by striking out all that follows "shall remain in effect" and inserting in lieu thereof a period.

SEC. 3. Section 215(f)(7) of the Social Security Act is amended by striking out "For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B)" and inserting in lieu thereof the following: "For purposes of recomputing a primary insurance amount determined under subsection (a) (as so in effect) in case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(i) as in effect after December 1978, the average monthly wage shall be determined as provided by subsection (b)(4). For purposes of recomputing a primary insurance amount determined under subsection (d) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(ii)".

SEC. 4. Section 215(i)(4) of the Social Security Act is amended by striking out "(but the application" and all that follows down through "paragraph (4) of that subsection)".

SEC. 5. (a) Section 215(a)(7)(A) of the Social Security Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection" in the matter preceding clause (i).

(b)(1) Section 215(a)(7)(B)(i) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "In applying subparagraph (A) in the determination of an individual's primary insurance amount, there shall first be computed (I) in the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, an amount which is equal to the individual's primary insurance amount under that paragraph, reduced by substituting (for purposes of this computation) the applicable percent specified in clause (ii) of this subparagraph for the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1), or (II) in the case of an individual whose primary insurance amount would be computed under section 215(a) as in effect in December 1978 by reason of paragraph (4)(B)(i) of this subsection, an amount which is equal to the individual's primary insurance amount under that section, reduced by a percentage equivalent to the percentage reduction which (as determined under regulations prescribed by the Secretary) would occur under subclause (I) if such primary insurance amount were a primary insurance amount under paragraph (1) of this subsection.".

(2) the second sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection".

(3) The third sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting ", or (by reason of paragraph (4)(B)(i)) under 215(a) as in effect in December 1978," after "under paragraph (1) of this subsection".

SEC. 6. (a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) Where an individual is entitled on the date of the enactment of this Act to old-age insurance benefits under title II of the Social Security Act which were computed—

(1) under section 215 of that Act as in effect (by reason of the Social Security amendments of 1977) after December 1978, or

(2) under section 215 of that Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1) of the Social Security Act) shall, with respect to monthly benefits payable for months after December 1984, recompute such individual's primary insurance amount so as to take into account the amendments made by this Act, and shall pay to such individual in a lump sum any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which such recomputation is effective) by reason of such amendments.

By Mr. GRASSLEY:

S. 1121. A bill to require the General Accounting Office to audit the Board of Governors of the Federal Reserve System, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve Banks and their branches; to the Committee on Banking, Housing, and Urban Affairs.

GOA AUDIT OF THE FEDERAL RESERVE

● Mr. GRASSLEY. Mr. President, today I am introducing a bill which would improve the accountability of the Federal Reserve System. My bill would require the General Accounting Office to annually examine and audit the operations of the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and all Federal Reserve branch banks.

Though independent CPA's from firms such as Peat Marwick presently conduct annual audits of the Federal Reserve, these audits do not include an examination of either the Federal Open Market Committee or other branches of the Fed. Congress must have information relating to the activities, not just to the expenses, of the Federal Reserve Board.

Audits dealing with the Fed's activities are severely limited by the United States Code Annotated (title 31, section 714(b)), which specifically exempts the Federal Reserve from these four types of examinations:

First, audits may not include transactions for or with a foreign central bank, government or foreign country, or nonprivate international financial organizations;

Second, audits may not include deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

Third, audits may not include transactions made under the direction of the Federal Open Market Committee;

Fourth, audits may not include parts of discussions or communications among or between members of the Board of Governors and officers and employees of the Federal Reserve System.

These types of decisions by the members of the Federal Reserve Board affect the entire American population. Their activities must be accountable to the public's elected representatives in Congress.

The actions of the Federal Reserve Board can raise and lower inflation and interest rates, thereby affecting farmers' decisions, workers' employment opportunities, and businesses' development plans.

Many other decisions made by the Federal Reserve Board also affect the international economy. Congress must examine the relationship of the Federal Reserve with foreign countries and international banks.

The American people and the Congress should know what decisions are being made by the Federal Reserve and the reasons for those decisions. We must carefully look at the powers we have granted to the Fed over the years. Then we must see if Congress should be more knowledgeable of the Fed's actions.

I urge my colleagues to closely look at these issues and to support this bill which would mandate GAO audits of the Federal Reserve System.

Mr. President, I ask that a copy of this legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Comptroller General of the United States shall make, under such rules and regulations as he shall prescribe, an audit for each fiscal year of the Board of Governors of the Federal Reserve System, the Federal Advisory Council, the Federal Open Market Committee, and all Federal Reserve banks and their branches, including transactions of the Federal Reserve System's open market account conducted through recognized dealers.

(b) In making the audit required by subsection (a), representatives of the General Accounting Office shall have access to books, accounts, records, files, and all other papers, things, and property belonging to or in use by the entities being audited, including reports of examinations of member banks, from whatever source. They shall be afforded full facilities for verifying transactions with balances or securities held by depositories, fiscal agents, and custodians of such entities.

(c) The Comptroller General shall, within six months after the end of each fiscal year, or as soon thereafter as may be practicable, make a report to the Congress on the results of the audit required by subsection (a), and he shall make any special or preliminary reports he deems desirable for the information of the Congress. A copy of each report made under this subsection shall be sent to the President of the United States, the Board of Governors of the Federal Reserve System, and the Federal Reserve banks. In addition to other matters, the report shall include such comments and recommendations as the Comptroller General may deem advisable, including recommendations for attaining a more economical and efficient administration of the entities audited, and the report shall specifically show any program, financial transaction, or undertaking observed in the course of the audit which in the opinion of the Comptroller General has been carried on without authority of law.

(d) The Comptroller General is authorized to employ such personnel and to obtain such temporary and intermittent services as may be necessary to carry out the audits required by subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such individuals may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.●

By Mr. DASCHLE (for himself and Mr. EXON):

S. 1122. A bill to amend the Federal Meat Inspection Act to impose reciprocal inspection requirements for imported meat articles under certain conditions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

IMPORTED MEAT INSPECTION RECIPROCITY ACT

Mr. DASCHLE. Mr. President, I am today introducing legislation which will address the issue of reciprocity of meat inspection in international trade.

Our country's agricultural producers have the ability to compete with producers anywhere in the world. Yet, their competitive position is threatened by artificial trade barriers imposed by many of our trading partners.

As a member of both the Senate Finance and Agriculture Committees, which are considering trade legislation, I have had the chance to follow the frustrations many of our producers feel when their products face unfair trade practices in international commerce. Time after time, barrier after barrier, our agricultural producers are expected to compete in the international market with one hand tied behind their back.

Our Nation's livestock producers have seen the results of these unfair trade barriers. The latest case surfaced with the European Economic Community's Third Country Meat Inspection Directive which was announced last year. This EEC directive stated that no USDA/FSIS-inspected meat plants would be permitted to export meat to the EEC unless specified tighter facility and inspection standards were met.

EEC representatives came to the United States to conduct reviews of the operating facilities of the meat processing firms that are exporting products to the EEC. These plants are all operating under USDA inspection. Nearly all of the approximately 400 plants the EEC inspected failed to meet European guidelines.

Many of the standards our meat processing firms failed to meet were not "health-related," though health concerns were the justification used for the new inspection process. The deficiencies were quite often nonproduction-related and required the expenditure of a great amount of capital—deficiencies such as "No truck wash on premises," and "Yard not yet fully paved * * * very muddy after rainfall."

Even though most industry experts view this as trade barrier, the meat processing industry has been desperately trying to meet the European standards. However, meeting these guidelines is an expensive undertaking. Plants that do not meet the European requirements will not be allowed to export to Europe.

Europe is a very important market for our meatpackers and producers, representing about one-third of the total variety meat market. Our packers and producers simply cannot withstand the loss of these markets, and we cannot afford the loss of these vital small businesses in an already economically depressed industry.

While I certainly understand and respect the European Community's desire to have quality meat imports, I cannot stand by and allow transparent trade barriers to be applied under the guise of "food wholesomeness."

The Federal Meat Inspection Act establishes the criteria for the imported meat inspection process. The Secretary of Agriculture is required to certify that the exporting country's meat inspection process meets U.S. standards. Following this general country-by-country certification, individual plants are occasionally spot checked by USDA meat inspectors to insure the general wholesomeness of that plant's meat inspection process.

This imported meat inspection process is not perfect. In fact, I have often criticized the manner in which imported meat has been inspected. The problems with this process are well documented.

I am today introducing the Meat Inspection Reciprocity Act, which will provide the Secretary with the tools to address the trade and inspection problem. Simply put, my bill will:

First, require the Secretary of Agriculture to investigate the meat inspection requirements in all countries which export meat to the United States. The Senate and House Agriculture Committees can also request the Secretary's investigation.

Second, notify Congress of any country which imposes a meat inspection process on U.S. meat exports which is:

Not substantiated by technological or scientific basis; or

An inspection process which is substantially stricter than the process utilized for its internal meat process.

Third, require the Secretary, upon such findings, to certify that foreign meat exporting plants in that country meet to the letter of the law the U.S. meat inspection requirements before they are allowed to ship meat exports to the United States.

In summary, this bill will simply provide inspection reciprocity, and it will give the Secretary the authority necessary to crackdown on thinly veiled trade barriers.

We want nothing more than fair treatment in the international trading arena. The Meat Inspection Reciproci-

ty Act will go a long way toward accomplishing that goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Imported Meat Inspection Reciprocity Act of 1987".

SEC. 2. RECIPROCAL MEAT INSPECTION REQUIREMENT.

Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection:

"(A) The term 'meat articles' means carcasses, meat, and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, that are capable of use as human food.

"(B) The term 'standards' means inspection, building construction, sanitary, quality, species verification, residue, and other standards that are applicable to meat articles.

"(2) On request of the Committee on Agriculture of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry of the Senate, or at the initiative of the Secretary, the Secretary shall determine whether a foreign country applies standards for the importation of meat articles from the United States that—

"(A) are not substantiated by reliable analytical methods; or

"(B) are not applied to domestic meat articles produced in the country in the same manner as the country applies the standards to meat articles imported from the United States.

"(3) If the Secretary determines that a foreign country applies standards as described in paragraph (2), a meat article slaughtered in a plant in the foreign country shall not be permitted entry into the United States unless the Secretary has issued a certification stating that the meat article has met the standards applicable to meat articles in commerce within the United States.

"(4) The Secretary shall—

"(A) periodically review such certifications; and

"(B) revoke any certification if the Secretary determines that the plant involved is not applying standards described in paragraph (3).".

SEC. 3. REPORTS.

Section 620(e) of the Federal Meat Inspection Act (21 U.S.C. 620(e)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the name of each foreign country that applies standards for the importation of meat articles from the United States that are described in subsection (h)(2).".

By Mr. DURENBERGER:

S. 1123. A bill to control air emissions which are precursors of acid deposition, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL ACID DEPOSITION REDUCTION ACT

● Mr. DURENBERGER. Mr. President, I am today introducing the National Acid Deposition Reduction Act of 1987. This bill has many features which have not been included in other acid rain bills introduced in the Senate this year.

The bill contains a trust fund to be used to assist utilities with the capital and operating costs of the control technologies which will be required.

The bill contains an emissions fee imposed on sulfur dioxide and nitrogen oxide emissions from stationary and mobile sources. The revenues from the fees amounting to $50 billion over a 30-year period are to be placed in the trust fund.

The bill includes a deposition standard for sensitive aquatic and terrestrial resources to assure that the control program provides sufficient reductions to prevent further environmental damage.

The bill modifies the law which authorized the 10-year National Acid Precipitation Assessment Program to make that research effort ongoing and to include within its scope, health and environmental damage caused by air pollutants other than acid precipitation such as ozone.

And the bill requires EPA to establish a tighter new source performance standard for nitrogen oxide emissions from stationary sources.

Mr. President, those are the principal innovations contained in this bill. In addition, it includes an authorization for the Clean Coal Technology Program which was proposed by the United States-Canadian envoys on acid rain. Senator MITCHELL and I have previously sponsored such an authorization as a free-standing bill, S. 911.

This legislation would also require EPA to review and revise the national ambient air quality standards for sulfur dioxide, nitrogen dioxide, ozone, acid aerosols and fine particles. Senator BAUCUS and I have previously sponsored bill S. 796 which included similar provisions.

Finally, the bill contains two control programs, one for stationary sources and one for mobile sources, which are designed to achieve a 12-million-ton reduction in sulfur dioxide emissions and a 4-million-ton reduction in nitrogen oxide emissions within 10 years, by January 1, 1997.

The Stationary Source Control Program contained in this bill is a two-phase program. In the first phase, which applies only to electric utilities and which has an effective date of January 1, 1994, each State must achieve average emissions rates of 2.0 pounds sulfur dioxide and 0.8 pounds nitrogen oxides for each million Btu of heat input.

The second phase, with an effective date beginning in 1997, includes emissions from three clusters of sources—electric utilities, industrial boilers and industrial process emissions. For utilities the statewide emission rates cannot exceed 0.9 pounds SO_2 and 0.6 pounds NO_x per million Btu. Various exceptions are included in the bill to assure that compliance costs are not unreasonable. These exceptions focus principally on the problem of NO_x emissions and reflect, I think, the less certain nature of the vialable control strategies for NO_x emissions.

Mr. President, the State are giving maximum flexibility under this bill to meet the reduction targets with any mix of control strategies whih seems appropriate to each State. No specific control technology is mandated. The States are to develop plans to meet the required statewide averages. EPA will provide technical guidance and financial assistance to the States to aid in the development of the control programs required. States will be given an opportunity to modify their proposed control programs affecting utility boilers between the first and the second phases. There is, however, no gap in the national political will between the two phases. The bill does not contemplate any congressional reconsideration of the goals and targets once the program is underway.

The bill has a default provision requiring that every electric utility and industral boiler in a State that does not develop a plan meet stringent emissions limitations. The bill has a cap requiring that new sources or existing sources that wish to increase their emissions rate acquire an offset before the new emissions are added to the inventory. There is also a powerplant life extension program requiring every powerplant to meet an SO_5 emissions rate of 0.9 pounds and an NO_x emissions rate of 0.6 pounds per million Btu's on and after its 30th anniversary. This provision takes effect in 1994 and includes an exemption for plants with low emissions rates which will be used to meet peak demands and for other intermittent needs.

As has been said many times here on the floor of the Senate, an adequate acid rain control program will include significant costs regions of the Nation. This bill is designed to spread the cost of the required reductions to all sources which contribute to the problem.

Mr. President, this is a polluter pays bill. Some people assume that any acid rain program that provides a financing mechanism deviates from the polluter pays principle. That is not the case. All of the subsidy in this bill is raised from fees on air pollution—from taxes imposed on sulfur dioxide and nitrogen oxide emissions. Pulluters will pay under this bill. But the burdensome

cost of reductions will be spread more broadly to every source of SO_2 and NO_x emissions in the Nation.

The fees in this bill are designed to raise $50 billion over a 30-year period in roughly equal installments every 10 years. Two-thirds of the revenue is to come for an SO_2 fee. One-third of the revenue is to come from NO_x fees. Half the NO_x revenues will come from stationary sources and half from mobile sources. To assure administrative simplicity the fees are limited to major stationary sources and the first sale of light-duty vehicles.

The SO_2 is designed to discourage emissions. Previous studies conducted by EPA have indicated that early reductions in emissions of slightly more than 1 million tons per year might reasonably be expected to result from a modest tax. The SO_2 tax in this bill is graduated with higher rates for sources with higher rates of emissions. The top rate is $400 per ton for sources with emissions rates in excess of 4 pounds per million Btu. The rate reduces gradually to $125 per ton for sources at 1.2 pounds per million Btu. Sources with emissions rates below the 1.2 threshold will also have to pay a tax at a rate to be determined by the Secretary and in an amount which is sufficient to assure that the trust fund will raise $50 billion over the 30-year period.

EPA will use these revenues to assist utilities and other sources with the cost of control technology. Matching rates of 70 percent for capital expenditures and 30 percent for operating expenditures are authorized. If there are not sufficient funds to finance all required projects, EPA is instructed to put the projects in a priority order. Those getting high priority will be projects with the most cost effective emissions reductions and which are located in areas likely to contribute inordinately to damage of sensitive resources. There is a circuit breaker in the bill for coal miners in the high sulfur coal States. EPA is to limit the projects which incorporate fuel switching so that no substantial unemployment or regional economic dislocations will be experienced.

Mr. President, in addition to funding the basic acid rain control program with a 12-million-ton reduction goal, this legislation also provides modest support for new clean coal technologies. The Clean Coal Technology Program authorized here is our attempt to translate the report of the special envoys on acid rain into legislative language. It is a 5-year, $2.5 billion program. Projects are to meet all of the criteria set forth by the envoys including demonstration of technologies which would be available for retrofit on a large number of existing sources and near-term reductions in the acid rain precursor pollutants which are moving from the United States into Canada.

I have made one modification in this bill which is a significant departure from the envoy's report and from the bill which Senator MITCHELL and I introduce a few weeks ago. The Federal matching rate in the bill I am introducing today is 70 percent, not 50 percent as was recommended by the envoys. This modification reflects the financing scheme which is contained in the bill and which is supported by emissions fees. It would make little sense to offer a 70-percent match for the installation of conventional control technologies, while maintaining only a 50-percent match for innovative clean coal systems. The same 70-percent matching rate is offered for all projects.

Mr. President, the Mobile Source Control Program contained in this legislation will be familiar to those who have studied other acid rain bills which have been introduced in this Congress. It is essentially a series of tailpipe standards for cars and trucks which are more stringent than existing regulation. But there are three points which deserve mention. First, there is no requirement for the implementation of so-called stage II systems at gasoline service stations. There is a requirement for on-board canisters, which appear to this Senator more sensible and cost effective than the stage II technologies. If canisters were now in place, the at-the-pump refueling controls would be entirely redundant.

Second, the on-board canisters must be designed and certified for fuels which have a Reid vapor pressure of 10 pounds per square inch. This certification level is higher than existing regulatory practices at the EPA. It more closely reflects the actual fuels that are in commerce and will allow room for gasoline blends including ethanol fuels which have higher volatility.

Finally on the Mobile Source Program, there is a requirement that motor fuels turned out by refiners must have an RVP no higher than 9 pounds per square inch, but accommodation is made for fuels which are blends including alcohol which causes these fuels to have higher vapor pressure.

Mr. President, there is one final provision of this legislation which I would explain to my colleagues this afternoon, that is the provision requiring the Environmental Protection Agency to establish a deposition standard for sensitive resources. A deposition standard is a measure of the acid compounds which actually fall on a particular geographic area in a defined period of time. In the case of acid rain, damage to the resource is done by deposition—not by emissions or ambient concentrations. There is no guarantee that a control program for emissions will, in fact, protect any particular resource by actually lowering deposition below a level which that resource can absorb and neutralize. The deposition standard in this bill is designed to measure the effectiveness of the emissions control programs which are mandated by determining whether or not deposition at sensitive and critically sensitive aquatic resources does fall below levels which will prevent further damage.

Mr. President, my home State of Minnesota was the first and remains one of the few States which has adopted its own acid rain control program. The Minnesota acid rain law and regulation is based on a deposition standard. The bill I am introducing today takes the Minnesota experience and approach and brings it to the national level.

Minnesota established a deposition standard of 11 kilograms of wet sulfate per hectare per year which an administrative law judge found would be adequate to protect all of the sensitive aquatic resources in the State. There is one area in Minnesota where deposition levels are currently above that level. According to the provisions of State law our pollution control agency then further modified the emissions limitations applying two electric utilities to bring deposition at that site down to a level that might more closely approximate the standard. It is, of course, difficult for a single State acting alone to effectively implement a deposition standard; 90 percent of the emissions in our State come from sources outside of our boundaries.

Mr. President, I believe that a deposition standard can serve a useful function in a national acid rain control program. It is not unlike the "beyond-BAT" provisions which we recently added to the Clean Water Act. This bill requires the installation of technology to control emissions just like the Clean Water Act establishes effluent guidelines based on best available technology. But even after the installation of the technology at all the sources of water pollution there remain some water bodies that cannot meet water quality standards which have also been established under the water pollution control program. So further controls are imposed to assure that the environmental resource is not loaded with more pollutants than it can sustain.

The deposition standard in this bill would serve a comparable function. It is designed to protect sensitive resources. It will identify those areas of the Nation which, even after the implementation of a national acid rain control program, continue to receive pollution loadings which are beyond the buffering and neutralizing capacity of the ecosystem. According to the

requirements of this bill, further reductions at sources which contribute to excessive loading will be required.

Mr. President, that concludes my brief summary of this bill. I hope that Members find that there are provisions here which are of interest and that may be useful in resolving the now 7-year-old debate on acid rain controls.

Mr. President, I would ask that the text of the bill be printed in the RECORD along with my comments this afternoon.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act, together with the following table of contents, may be cited as the "National Acid Deposition Reduction Act of 1987".

TABLE OF CONTENTS

TITLE I—STATIONARY SOURCES

ACID DEPOSITION CONTROL PROGRAM

SEC. 101. Title I of the Clean Air Act is amended by adding the following new part at the end thereof—

"PART E—ACID DEPOSITION CONTROL PROGRAM

"FINDINGS AND PURPOSES

"SEC. 180. (a) The Congress finds that—

"(1) the deposition of acid compounds from the atmosphere is causing and contributing to widespread, long-term degradation of aquatic and terrestrial ecosystems in the United States;

"(2) the principal source of the acid compounds and their precursors in the atmosphere is the combustion of fossil fuels;

"(3) the long-range transport of pollutants and their transformation products is an interstate and international problem;

"(4) substantial reductions in the total atmospheric loadings of pollutants including sulfur dioxide and oxides of nitrogen will enhance protection of public health, welfare and the environment;

"(5) control strategies and technologies to reduce air emissions of pollutants which are the precursors of acid deposition exist now and are economically feasible for widespread application; and

"(6) a Federal Government program to require the utilization of existing control strategies and technologies so as to substantially reduce air emissions of pollutants which may be precursors of acid deposition is an appropriate and necessary step to protect public health, welfare and the environment.

"(b) The purposes of this part are to—

"(1) protect public health, welfare and the environment from any actual or potential adverse effect which may be caused by ambient concentrations or the deposition of air pollutants which may be precursors of acid rain or the acidification of aquatic and terrestrial resources;

"(2) bring and retain emissions of sulfur dioxide within the United States to an annual level at least 12,000,000 tons less than the total actual annual level of such emissions in calendar year 1980;

"(3) bring and retain emissions of oxides of nitrogen within the United States to an annual level at least 4,000,000 tons less than the total actual annual level of such emissions in calendar year 1980;

"(4) provide flexibility in the design of reduction programs at the State level to assure implementation of the most cost effective emission reduction techniques; and

"(5) assure that the costs of reduction in air emissions of sulfur dioxide and oxides of nitrogen are shared equitably by all sources of such pollutants.

"EMISSIONS FROM UTILITY BOILERS

"SEC. 181. (a) PHASE I REQUIREMENTS.—Not later than January 1, 1994, and thereafter, each State shall achieve within its borders an annual Statewide average rate of emissions of—

"(1) sulfur dioxide not greater than 2.0 pounds per million British thermal units of heat input, and

"(2) oxides of nitrogen not greater than 0.8 pounds per million British thermal units of heat input,

for all fossil fuel fired electric utility steam generating units in the State.

"(b) PHASE II REQUIREMENTS.—Not later than January 1, 1997, and thereafter, each State shall achieve within its borders an annual Statewide average rate of emissions of—

"(1) sulfur dioxide not greater than 0.9 pounds per million British thermal units of heat input, and

"(2) oxides of nitrogen not greater than 0.6 pounds per million British thermal units of heat input,

for all fossil fuel fired electric utility steam generating units in the State.

"(c) IMPLEMENTATION.—Not later than 24 months after the enactment of this section, the Governor of each State shall submit to the Administrator a plan including enforceable measures adequate to achieve the reduction in emissions of sulfur dioxide and oxides of nitrogen required by subsections (a) and (b) of this section including emission limitations and schedules of compliance for fossil fuel fired electric utility steam generating units and additional means of emission reduction in accordance with section 186 of this Act.

"(d) STATEWIDE AVERAGE EMISSIONS RATES.—For purposes of subsections (a) and (b) of this section, Statewide average emissions rates shall not include consideration of the rates of emissions of any fossil fuel fired electric utility steam generating unit (or units) which began operation on or after January 1, 1981.

"(e) SPECIAL RULE.—For purposes of subsections (a)(2) and (b)(2) of this section, Statewide average emissions rates with respect to oxides of nitrogen may exclude from consideration emissions from any fossil fuel fired electric utility steam generating unit (or units) which incorporates a "cyclone" or "wet bottom" boiler: *Provided that* emissions of oxides of nitrogen from such unit (or units) which exceed 0.6 pounds per million British thermal units of heat input, averaged annually, shall be offset on a one-for-one basis by reductions in sulfur dioxide emissions at such unit (or units) or at another unit (or units) within the same State and that the offsetting reductions shall be in addition to those reductions required by subsection (a)(1) or (b)(1) or sections 110, 182, 183 or 187 of this Act.

"EMISSIONS FROM INDUSTRIAL BOILERS

"SEC. 182. (a) SULFUR DIOXIDE EMISSIONS.—

"(1) REQUIREMENTS.—Not later than January 1, 1997, and thereafter, each State shall achieve within its borders an annual Statewide average rate of emissions of sulfur dioxide not greater than 0.9 pounds per million British thermal units of heat input for all fossil fuel fired steam generating units in the State which are not fossil fuel fired electric utility steam generating units.

"(2) IMPLEMENTATION.—Not later than January 1, 1994, the Governor of each State shall submit to the Administrator a plan including enforceable measures adequate to achieve the reduction of emissions of sulfur dioxide required by paragraph (1) of this subsection including emission limitations and schedules of compliance for fossil fuel fired steam generating units other than electric utility units and additional means of emission reduction in accordance with section 186 of this Act.

"(b) NITROGEN OXIDE EMISSIONS.—

"(1) INVENTORY OF REDUCTIONS.—The Administrator shall identify all fossil fuel fired steam generating units which are not electric utility units in each State which can achieve at least an annual emission rate of 0.6 pounds of nitrogen oxides per million British thermal units of heat input through the use of burner retrofit technology or other means that can be utilized at a comparable cost per ton of nitrogen oxides removed. For those categories of boilers which cannot achieve such an annual emission rate using such technologies, the Administrator shall identify an annual emission rate which such categories of boilers can achieve using any means at a cost per ton of nitrogen oxides removed comparable to that of boilers which can meet at least an emission rate of 0.6 pounds of nitrogen oxides per million British thermal units of heat input using burner retrofit technology. Not later than 24 months after the date of enactment of this section, the Administrator shall transmit to each State an inventory of the

total nitrogen oxide emission reductions that can be achieved through utilization of such technologies in each State.

"(2) IMPLEMENTATION.—Not later than January 1, 1994, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for emissions of nitrogen oxides from fossil fuel fired steam generating units other than electric utility units. The State plan shall include emissions limitations and compliance schedules in accordance with section 186 of this Act applicable to such steam generating units within the State which the Governor deems appropriate and which are adequate to ensure that on and after January 1, 1997, the aggregate annual reductions in emissions of nitrogen oxides from the total emissions of such sources located in the State will be at least equal to the total Statewide emissions reductions identified by the Administrator pursuant to paragraph (1) of this subsection.

"(c) STATEWIDE AVERAGE EMISSIONS RATES.—For purposes of subsections (a) and (b) of this section, Statewide average emissions rates shall not include consideration of the emissions rates of any fossil fuel fired steam generating unit (or units) which begin operations on or after the date of enactment of this section.

"INDUSTRIAL PROCESS EMISSIONS

"SEC. 183. (a) INVENTORY.—The Administrator shall conduct and periodically update a comprehensive annual inventory of emissions of sulfur dioxide and oxides of nitrogen from stationary sources of such air pollutants, including fossil fuel fired electric utility steam generating units, other fossil fuel fired steam generating units, and stationary sources of industrial process emissions.

"(b) POTENTIAL REDUCTIONS FROM PROCESS EMISSIONS.—The Administrator shall identify the total Statewide potential reductions in emissions of sulfur dioxide and oxides of nitrogen which are economically achievable on and after January 1, 1997 by stationary sources of industrial process emissions in each State. By December 31, 1991, the Administrator shall transmit to the Governor of each State a statement containing a calculation of the total reductions identified for that State under this subsection, together with an explanation of such calculation.

"(c) IMPLEMENTATION.—Not later than January 1, 1994, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for emissions of sulfur dioxide and oxides of nitrogen from stationary sources of industrial process emissions. Such State plan may include any emissions limitations and compliance schedules applicable to any source of industrial process emissions within the State, which the State deems appropriate and which are adequate to assure that, by January 1, 1997 and thereafter, the aggregate annual reductions in emissions of sulfur dioxide and oxides of nitrogen from the total of such sources located in the State will be at least equal to the total Statewide potential emission reductions for each such air pollutants identified by the Administrator pursuant to subsection (b).

"STATE REDUCTION PLANS

"SEC. 184. (a) GUIDANCE.—Not later than 9 months after the date of enactment of this part, the Administrator shall, after consultation with air pollution control officials of the several States, publish guidance for the preparation of State plans as required by section 181 of this Act. Not later than January 1, 1990, the Administrator shall, after consultation with air pollution control officials of the several States, publish guidance for the preparation of plans as required by sections 182 and 183 of this Act.

"(b) PLANS.—The Governor of each State shall, after notice and opportunity for public comment, prepare and submit to the Administrator for approval according to the provisions of subsection (d) of this section plans for the reduction in emissions of sulfur dioxide and oxides of nitrogen as required by sections 181, 182 and 183 of this part.

"(c) SIP AMENDMENT.—Each emission limitation, schedule for compliance or other measure contained in a State Reduction Plan shall be deemed a requirement of the State implementation plan approved or promulgated by the State under section 110 of this Act and any guidance, including provisions for public participation, for the development of State implementation plans issued by the Administrator shall apply to the preparation and elements of such plans.

"(d) REVIEW AND APPROVAL.—Not later than 180 days after receiving a State Reduction Plan submitted by a State pursuant to the provisions of subsection (b), and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such Reduction Plan. The Administrator shall disapprove any Reduction Plan submitted by a State, if the Administrator determines that such Reduction Plan—

"(1) does not contain enforceable requirements for continuous emissions reduction, including for each source limitations on emission rate, assumed rates of operation, and limitations on aggregate annual emissions consistent with assumed rates of operation,

"(2) does not contain requirements for the installation and operation of continuous emissions monitoring by each source and additional monitoring by enforcement agencies to assure that emission limitations are being met, or

"(3) is not adequate to achieve the reduction in emissions for such State required by this part within the time specified.

If the Administrator disapproves a Reduction Plan pursuant to this subsection, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State shall have 180 days to revise and resubmit the proposed Reduction Plan for approval pursuant to the provisions of this subsection. Whenever the Administrator determines after public hearing that a State is not administering and enforcing a Reduction Plan approved pursuant to this subsection in accordance with the guidance of the Administrator or the requirements of paragraphs (1), (2), and (3), the Administrator shall so notify the State and, if appropriate action is not taken within 90 days, the Administrator shall withdraw approval of such Reduction Plan. The Administrator shall not withdraw approval of any such Reduction Plan unless the State shall have been notified and the reasons for the withdrawal shall have been stated in writing and made public. The owner or operator of each fossil fuel fired steam generating unit which is a major stationary source of sulfur dioxide emissions in a State for which approval of a Reduction Plan has been withdrawn pursuant to the provisions of this subsection shall be subject to the provisions of section 185 and shall be in compliance with the emissions limitations for sulfur dioxide and oxides of nitrogen contained in such section not later than 36 months after the date on which approval is withdrawn.

"(e) MODIFICATIONS.—During a 30-day period beginning December 1, 1993 the Governor of any State may, after notice and opportunity for public comment, submit proposed modifications to a Reduction Plan which has been previously submitted according to the requirements of section 181 and approved pursuant to subsection (d) of this section. Review and approval of such proposed modifications shall be conducted according to the provisions of subsection (d) except that modifications disapproved may not be resubmitted.

"(f) CERTIFICATION OF COMPLIANCE.—Not later than 36 months after the date of enactment of this part, the owner or operator of each fossil fuel fired electric utility steam generating unit subject to any emission limitation or limitations under this part shall certify to the State in which the unit is located the means by which such unit intends to comply with such emission limitation or limitations, identifying the extent to which it will rely on fuel substitution, installation of a system of continuous technological emission reduction, retirement of existing facilities, implementation of enforceable conservation measures, or a combination thereof. Not later than January 1, 1995, the owner or operator of each fossil fuel fired steam generating unit which is not an electric utility and the owner and operator of each source of industrial process emissions which is subject to any emission limitation or limitations under this part shall certify to the State in which such unit or source is located the means by which such unit or source intends to comply with such emission limitation or limitations, identifying the extent to which it will rely on fuel substitution, installation of a system of continuous technological emission reduction, retirement of existing facilities, implementation of enforceable conservation measures, or combination thereof.

"(g) ASSISTANCE.—The Administrator is authorized to make grants, subject to such terms and conditions as the Administrator considers appropriate, to each State for the purpose of assisting the State in developing and administering Reduction Plan pursuant to the provisions of this part. There are authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1987 to carry out the provisions of this subsection.

"DEFAULT REQUIREMENTS

"SEC. 185. (a) LIMITATION.—

"(1) ELECTRIC UTILITY UNITS.—In any State which has not, in accordance with section 181, adopted measures to achieve reductions required by such section within 30 months after the date of enactment of this part or which has not had such measures approved by the Administrator under section 185 within 42 months after the date of enactment of this part each fossil fuel fired electric steam generating unit which is not subject to section 111(a) shall comply with an emissions limitation of 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average and 0.6 pounds of oxides of nitrogen per million British thermal units of heat input on a monthly average on and after January 1, 1996.

"(2) INDUSTRIAL BOILERS.—In any State which has not, in accordance with section 182 adopted measures to achieve reductions

required by such section by not later than July 1, 1994 or which has not had such measures approved by the Administrator under section 185 by not later than July 1, 1995 each fossil fuel fired steam generating unit which is a major stationary source which is not an electric utility and which is not subject to section 111(a) shall comply with an emission limitation of 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average and 0.6 pounds oxides of nitrogen per million British thermal units of heat input on a monthly average on and after January 1, 1998.

"(b) COMPLIANCE PLAN.—The owner and operator of each steam generating unit subject to this section or subsection (d) of section 184 shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitations or equivalent emission reductions in accordance with section 186, not later than 36 months after the date of enactment of this part or 6 months after the date on which such owner or operator becomes subject to such emission limitation, whichever is later. The Administrator shall approve such plan and schedule for compliance if it—

"(1) contains enforceable requirements for continuous emission reduction or alternate measures permitted under section 187;

"(2) contains requirements for monitoring by the source and enforcement agencies, including but not limited to the installation of continuous emission monitors by all fossil fuel fired steam generating units to assure that the emission limitations are being met; and

"(3) is adequate to achieve the sulfur dioxide and oxides of nitrogen emissions rates required by this part within the time periods specified by subsection (a) of this section.

"(c) ENFORCEMENT.—Failure of the owner or operator of a fossil fuel fired steam generating unit subject to this section to submit such approvable plan and schedule within the time provided in this section, failure to comply with the plan and schedule of compliance, or failure to achieve the emission limitations required by this section as expeditiously as practicable, but not later than on and after the dates specified in subsection (a) of this section shall be violations of emissions limitations for the purposes of sections 113, 120 and 304 of this Act.

"ENFORCEABLE EMISSION REDUCTION PROGRAMS

"SEC. 186 (a) For the purpose of attaining emission reductions required by sections 181 and 182 of this Act or maintaining the limitation on emissions required by section 187, the following methods or programs for net emissions reduction may be used, in addition to enforceable continuous emission reduction measures, by a State or the owner or operator of a source, if emission limitations under such methods or programs are enforceable by the Federal Government, States other than those in which the emissions occur, and citizens under section 304 of this Act—

"(1) programs for energy conservation where enforceable reductions in emissions can be identified with such programs;

"(2) least emissions dispatch to meet electric generating demand at existing generating capacity;

"(3) retirement of major stationary sources at an earlier date than provided in schedules on file with the Federal Energy Regulatory Commission, the Internal Revenue Service, or State utility regulatory agencies;

"(4) trading of emissions reduction requirements and actual reductions on a substate basis, where the total aggregate tonnage emissions reductions is not less than 110 per centum of the the total that would be achieved under sections 181, 182 and 183 absent such trading, and for which States and the Administrator are authorized to establish emission banks or brokerage institutions to facilitate such trading;

"(5) precombustion cleaning of fuels; and

"(6) substitution of low sulfur coal for current fuels.

"(b) It shall be a first priority under this part to achieve the reductions in emissions required by sections 181 and 182 and maintaining the limitation on emissions required by section 187 through conservation of electricity. If the Governor of any State certifies to the Administrator, as part of the measures submitted under sections 181 and 182, that a program encouraging or rquiring the conservation of electricity will be implemented in such State and that such program will result in a reduction in emissions of sulfur dioxide or oxides of nitrogen, then such State may calculate the extent of the emissions reduction accomplished by such program of conservation, and may comply with the requirements of sections 181 and 182 by substituting such emissions reductions attributable to the conservation program for reductions required by sections 181 and 182.

"(c) Interstate trading of emission reduction requirements and actual reductions shall not be approved as a method or program to attain the emissions reductions required by sections 181 and 182 or maintaining the limitation on emissions required by section 187 of this part.

"FURTHER REDUCTIONS

"SEC. 187. (a) OFFSET REQUIREMENT FOR INCREASED SULFUR DIOXIDE EMISSIONS.—

"(1) IN GENERAL.—No major stationary source in operation before January 1, 1988 shall increase its actual rate of emissions of sulfur dioxide over that experienced by such source during the calendar year 1987, unless there has been identified for such source a simultaneous net reduction in emissions of such pollutant at one or more points in the State in which such source is located in excess of the proposed increase in emissions rate, and not otherwise required by a State Reduction Plan under section 181, 182 or 183 of this part, a State implementation plan under section 110 of this Act, or a powerplant life extension program under subsection (b). For each major stationary source beginning operations after January 1, 1988 there shall be identified for such source a simultaneous net reduction in emissions of sulfur dioxide at one or more points in the State in which such source is located in excess of the proposed emission rate for that source, and not otherwise required by a State Reduction Plan under section 181, 182 or 183 of this part, a State implementation plan under section 110 of this Act, or a powerplant life extension program under subsection (b). For purposes of this section a major stationary source beginning operation after January 1, 1988 and under construction before the date of enactment of this part shall be considered to be in operation before January 1, 1988 with an actual rate of emissions for the calendar year 1987 not in excess of standards of performance issued pursuant to section 111 of this Act. For purposes of complying with the requirements of this paragraph, emissions reductions at a source (or sources) in another State within the same administrative region of the Environmental Protection Agency shall be allowed as offsets: *Provided*, That the Statewide average emissions of sulfur dioxide for fossil fuel fired steam generating units in the State in which the new source is located do not exceed 0.9 pounds of sulfur dioxide per million British thermal units of heat input averaged annually.

"(2) EXCEPTION.—For purposes of paragraph (1) of this subsection, actual rate of emissions may exceed emissions for calendar year 1987, if the additional increment of emissions results from increasing plant utilization above 1987 levels, but in no case may the actual rate of emissions used to determine whether an increase has occurred under paragraph (1) exceed the rate of emissions that would result by multiplying the 1987 emissions rate by a plant utilization factor equal to the average level of production experienced by such source during the preceeding five-year period.

"(3) COMPLIANCE.—Each State shall assure compliance with this section and the provisions of emission reduction banks and brokerage institutions authorized under section 110 and section 186(a)(4) of this Act.

"(4) DEFINITION.—For purposes of this subsection "rate of emissions" means the gross tons of sulfur dioxide emitted by a source over any one-year period.

"(b) POWERPLANT LIFE EXTENSION.—Any fossil fuel fired steam generating unit (including any utility or nonutility unit) which is not a new source according to the provisions of section 111(a) and on which construction has been completed for thirty years or more shall comply with an emission limitation of not greater than 0.9 pounds of sulfur dioxide per million British thermal units of heat input on a monthly average. This subsection shall apply to all such units on and after January 1, 1994, except that any unit attaining a monthly average emission rate not exceeding 1.5 pounds of sulfur dioxide per million British thermal units of heat input may operate for a total of not more than 30,000 hours after such date. Reductions in the emissions of sulfur dioxide at any unit which result from the application of this subsection shall not be used to offset or compensate for existing, new or increased emissions of sulfur dioxide at any other unit which are controlled pursuant to the provisions of this Act. Reductions in the emissions of sulfur dioxide resulting from the application of this subsection to a unit after January 1, 1994 shall be in addition to reductions required as a result of the application of sections 181 and 182 of this Act to all units within the same State and no other unit shall be allowed to increase emissions even if such increase would not cause an exceedance of the applicable Statewide emissions rates.

"USES OF THE FUND

"SEC. 187. (a) IN GENERAL.—The Administrator may enter into contracts or cooperative agreements with, or provide financial assistance in the form of grants to, the owner or operator of any source required to achieve emission reductions under a Reduction Plan submitted and approved pursuant to section 181, 182 or 183 or a deposition control plan submitted and approved under section 129 of this Act. Not later than 18 months after the date of enactment of this part, the Administrator shall publish regulations to assure the satisfactory implementation of this section.

"(b) CAPITAL COSTS.—The Administrator shall use funds available under the Acid Deposition Reduction Trust Fund estab-

lished by title III of the National Acid Deposition Reduction Act to pay up to 70 per centum of the capital costs necessary to implement control strategies at any source required to achieve emissions reductions under a Reduction Plan submitted and approved pursuant to section 181, 182 or 183 or a deposition control plan submitted and approved pursuant to section 129 of this Act: *Provided*, That—

"(1) Such assistance shall be conditioned on the owner or operator of such source entering into an enforceable agreement with the Administrator to assure proper operation and maintenance of any technological system purchased with such assistance funds under this section and compliance with emissions limitations established under this part for the remaining life of the source; and

"(2) any assistance to the owner or operator of a source implementing a control strategy described under section 186(a)(3) (early retirement) of this part shall be limited to 70 per centum of the cost of the technology for continuous emissions reductions as defined by section 111(a)(7) of this Act.

"(c) OPERATING COSTS.—The Administrator shall use funds available under the Acid Deposition Reduction Trust Fund established by title III of the National Acid Deposition Reduction Act to pay up to 30 per centum of the operation and maintenance costs necessary to implement control strategies at any source required to achieve emissions reductions under a Reduction Plan submitted and approved pursuant to section 181, 182 or 183 or a deposition control plan submitted and approved pursuant to section 129 of this Act: *Provided*, That—

"(1) Such assistance shall be conditioned on the owner or operator of such source entering into an enforceable agreement with the Administrator to properly maintain and operate any technological system associated with such assistance and compliance with emissions limitations established under this part for the remaining life of such source; and

"(2) in the case of control strategies described in section 186(a)(6) (fuel switching) the assistance is limited to 30 per centum of any additional cost reflected in the delivered price of the substituted fuels or fuel mixtures as compared to the delivered price of fuels or fuel mixtures currently used; and

"(3) in the case of control strategies described in section 186(a)(2) (least emissions dispatching) the assistance is limited to 30 per centum of the cost that could have been avoided through least cost dispatching.

"(d) APPLICATIONS.—Any person or any public or private entity which is the owner or operator of a source of air emissions required to achieve emissions reductions under a Reduction Plan submitted and approved pursuant to section 181, 182 or 183 or a deposition control plan submitted and approved pursuant to section 129 of this Act may submit an application to the Administrator for assistance under this section. The application shall contain a description of the proposed control strategy and such other information as the Administrator may require.

"(e) COMMITMENTS.—Not later than 180 days after the publication of each of the priority lists required by subsection (f), the Administrator shall enter into binding agreements with the owners and operators of all sources with a control stratgegy included on the priority list. Such agreements shall include the provisions and conditions necessary to assure compliance with this part, including a plan and schedule of compliance for achieving the emissions limitations as required under Reduction Plans submitted and approved pursuant to section 181, 182 or 183.

"(f) PRIORITY LISTS.—

(1) IN GENERAL.—In the event that there are not sufficient funds available through the Acid Deposition Reduction Trust Fund to provide assistance for control strategies at all of the sources eligible and making application for such assistance under this section, the Administrator shall publish a priority list of such sources and strategies and provide assistance to the extent funds are available according to the order of priority on such list. There shall be two such lists, one for all sources required to make reductions pursuant to Reduction Plans satisfying the requirements of section 181(a) which shall be published not later than July 1, 1991 and one for all sources required to make reductions pursuant to Reduction Plans satisfying the requirements of sections 181(b), 182 and 183 and deposition control plans submitted and approved pursuant to section 129 which shall be published not later than July 1, 1985.

"(2) PRIORITIES.—The priority lists required by paragraph (1) shall—

"(A) assign highest priority (subject to the provisions of subparagraph (B)) to control strategies at sources which will achieve the most cost effective emissions reductions measured as the cost per ton of reductions of either sulfur dioxide or oxides of nitrogen;

"(B) reflect scientific knowledge concerning the relationship of emissions sources to receptor areas for aquatic and terrestrial resources which are sensitive or critically sensitive to acidic deposition and the health and environmental benefits of preserving and protecting those resources; and

"(C) limit the number of projects which rely all or in part on fuel switching to the extent that substantial unemployment or economic dislocation might result should such limitation not be applied.

"(g) LIMITATION.—Not more than 40 per centum of the funds expected to be available through the Acid Deposition Reduction Trust Fund to provide assistance under this section shall be used to provide assistance to projects on the first priority list with respect to reductions required pursuant to section 181(a).".

NSPS FOR NITROGEN OXIDE EMISSIONS

SEC. 102. Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(k) NO_x EMISSIONS FROM CERTAIN ELECTRIC UTILITY BOILERS.—The Administrator shall revise the standards of performance for emissions of nitrogen oxides from electric utility steam generating units which burn bituminous or subbituminous coal. Such revised standards shall prohibit the emission of nitrogen oxides from such units at a rate which exceeds:

"(1) 0.30 pounds per million British thermal units, in the case of subbituminous coal, based on a 30-day rolling average; and

"(2) 0.40 pounds per million British thermal units, in the case of bituminous coal, based on a 30-day rolling average.

Such revised standard shall take effect with respect to units which commence construction after the date of enactment of this subsection. As used in this subsection, the terms "electric utility steam generating unit", "bituminous coal", and "subbituminous coal" have the same meanings as when used in 40 C.F.R. part 60, subpart Da, as in effect on January 1, 1983.

"(l) NSPS FOR NO_x EMISSIONS FROM INDUSTRIAL BOILERS.—The Administrator shall promulgate standards of performance under this section for emissions of oxides of nitrogen from all fossil fuel fired steam generating units which meet each of the following requirements:

"(1) The units are new sources within the meaning of subsection (a)(2);

"(2) The units are capable of combusting more than 50 million British thermal units per hour heat input of fossil fuel (either alone or in combination with any other fuel);

"(3) The units are not owned or operated by any electric utility.

"The standards under this section applicable to fossil fuel fired steam generating units which are capable of combusting more than 250 million British thermal units per hour heat input may vary from the standards applicable to units which are not capable of combusting more than 250 million British thermal units per hour heat input.".

SMELTERS

SEC. 103. Section 119 of the Clean Air Act is hereby repealed, and any primary nonferrous smelter order issued under such section shall terminate as of January 1, 1988. Any primary nonferrous smelter to which such an order was issued shall be in compliance with the applicable emission limitation or standard no later than January 1, 1988. No order under section 113 or other provision of the Clean Air Act, not the order of any court, shall permit any extension or delay in such compliance beyond January 1, 1988.

TALL STACKS

SEC. 104. Section 123 of the Clean Air Act is amended by striking the last sentence of subsection (c) and by adding at the end thereof the following new subsections:

"(d) Notwithstanding any provision of subsection (a), the Administrator may prohibit any increase in any stack height or restrict in any manner the stack height of any source including an existing source.

"(e) After review of State Reduction Plans submitted pursuant to sections 181 and 182 and deposition inventories and control plans submitted pursuant to section 129 of this Act, the Administrator shall not later than January 1, 1995 complete a review of the emissions limits for all existing fossil fuel fired steam generating units which are major sources in order to determine whether emission limits for such sources based on modeling credit for stack height are insufficient to protect sensitive or critically sensitive aquatic and terrestrial resources (as defined in section 129 of this Act). If emission limits are determined to be insufficient as a result of such modeling credits, the Administrator shall require the State, within six months, to correct the emission limit to conform with requirements of this section. It shall be the burden of the operator of each source to demonstrate the correct stack height credit to be used in determining the proper emission limits.

"(f) Not later than 18 months after the date of enactment of this subsection, the Administrator shall modify the new source performance standards for fossil fuel fired steam generating units (promulgated pursuant to section 111 of this Act) to prohibit stack heights in excess of good engineering practice.".

TITLE II—CLEAN COAL TECHNOLOGY

SHORT TITLE

SEC. 201. This title may be cited as the "Clean Coal Technologies Act of 1987".

CLEAN COAL PROGRAM

SEC. 202. Title I of the Clean Air Act is amended by adding the following new part at the end thereof—

"PART F—CLEAN COAL TECHNOLOGIES

"FINDINGS

"SEC. 190. The Congress finds that—

"(a) acid deposition is a serious environmental problem in both the United States and Canada:

"(b) air emissions from sources in both the United States and Canada are causing significant deposition of sulfates, nitrates and other acidic compounds on ecosystems in both nations;

"(c) acid deposition is a serious transboundary problem as air pollutants emitted by sources in both nations cross their mutual border causing diplomatic as well as environmental problems;

"(d) both the United States and Canada have a responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States;

"(e) the United States and Canada have a long tradition of successfully resolving transboundary environmental problems, both through the International Joint Commission and on a government-to-government basis;

"(f) the recommendations of the Special Envoys with respect to acid deposition build upon that tradition and, in combination with a long-term control program, constitute an appropriate near-term effort to address the transboundary acid deposition problem; and

"(g) control strategies and clean coal technologies necessary to carry out the recommendations of the Special Envoys exist now and can be deployed on a cost effective basis to reduce transboundary air pollution.

"STATEMENT OF POLICY

"SEC. 191. It is the purpose of this part to fully implement the recommendations of the Special Envoys with respect to acid deposition and transboundary air pollution problems and to improve relations between the United States and Canada by securing near-term reductions in the movement of air pollutants which may be precursors of acid deposition from areas within the United States to areas within Canada. To that purpose—

"(a) The Secretary of the Department of Energy is directed to promote the rapid deployment of existing clean coal technologies so as to reduce total atmospheric loadings of air pollutants which may be precursors of acid deposition and the transboundary movement of such pollutants.

"(b) The Administrator of the Environmental Protection Agency is directed to promote the vigorous enforcement of existing laws and regulations with respect to air pollution in a manner which is responsive to the problems of transboundary air pollution.

"(c) The Secretary of State is directed to seek establishment of a bilateral advisory and consultative group on transboundary air pollution comprising both diplomatic and environmental management officials from the United States and Canada to provide a forum for consultations on issues related to transboundary air pollution and to advise the directors of each nation's environmental program.

"DEFINITIONS

"Sec. 192. For purposes of this part—

"(a) the term "clean coal technology" means any technology, including technologies applied at the precombustion, combustion or post-combustion stage, deployed at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or industrial process steam which is not in widespread use at commercial scale as of the date of enactment of this part;

"(b) the term "coal" means anthracite, bituminous or subbituminous coal, lignite, or any fuel derivative thereof;

"(c) the term "conventional technology" means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, which achieves a significant reduction in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity or industrial process steam which is in widespread use at commercial scale on the date of enactment of this part;

"(d) the term "high-sulfur coal" means coal with a heat value of 10 million British thermal units per ton which has a sulfur content greater than 1 per centum sulfur by weight or coal with an equivalent or greater sulfur content after adjustment for the heat value of the coal;

"(e) the term "precursors of acid deposition" means air pollutants including sulfur dioxide, sulfates, oxides of nitrogen and nitrates and their transformation products which may be deposited in a wet or dry form and which when deposited contribute to the acidification of aquatic and other ecosystems; and

"(f) the term "Secretary" means the Secretary of the United States Department of Energy.

"PROGRAM

"Sec. 193. (a) GENERAL AUTHORITY.—The Secretary, pursuant to authority provided by the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), acting jointly with the Administrator is authorized and directed to carry out a program for the construction and operation of facilities to acquire further experience with respect to the commercial deployment of clean coal technologies which significantly reduce air emissions of sulfur dioxide or oxides of nitrogen resulting from the utilization of coal in the generation of electricity or industrial process steam. The Secretary and the Administrator may enter into contracts or cooperative agreements with, or provide financial assistance in the form of grants to, the owner or operator of any such facility to assure the deployment of clean coal technologies. The program established by this section shall include—

"(1) solicitations for proposed projects to deploy such technologies;

"(2) selection of suitable projects from among those proposed;

"(3) supervision of the construction and operation of such projects;

"(4) monitoring and evaluation of the results of the projects which are conducted; and

"(5) dissemination of information on the effectiveness and feasibility of the clean coal technologies which are operated.

Not later than 180 days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall publish regulations to assure the satisfactory implementation of each element of the program authorized by this part.

"(b) SOLICITATION.—Not later than 210 days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall publish a solicitation for proposals to deploy clean coal technologies which will significantly reduce air emissions of sulfur dioxide or oxides of nitrogen resulting from the utilization of coal in the generation of electricity or industrial process steam. The solicitation notice shall provide for a 30-day application period and shall prescribe the information to be included in the proposal, including technical and economic information sufficient to permit the Secretary and the Administrator to assess the potential effectiveness and feasibility of the technology to be deployed and the reductions in air emissions of sulfur dioxide or oxides of nitrogen which can be expected to be achieved through deployment of the technology. A second solicitation shall be conducted not later than 21 months after the date of enactment of this part.

"(c) APPLICATIONS.—Any person or any public or private entity which is the owner or operator of a major source of air emissions as defined in this Act may submit an application to the Secretary and the Administrator in response to the solicitations required by subsection (c) of this section. The application shall contain a proposed deployment plan setting forth the various phases of the project and such other information as the Secretary and the Administrator may require. Such plan shall provide that the technology to be deployed will be installed and operational as expeditiously as practicable, but in no case later than 36 months after the date on which the project is selected for assistance by the Secretary.

"(d) SELECTION CRITERIA.—The Secretary acting jointly with the Administrator may provide assistance under this part to a project which utilizes a clean coal technology, if the Secretary and the Administrator determine that the project will provide experience with respect to the operation of such technology at commercial scale and only if the project satisfies each of the following criteria—

"(1) the project will utilize technology which would be appropriate for retrofit on a significant number of existing coal-fired sources of air emissions of sulfur dioxide or oxides of nitrogen;

"(2) the project will contribute to a reduction in the transboundary movement of air pollutants which are precursors of acid deposition from areas within the United States to areas within Canada;

"(3) the technology to be deployed will significantly reduce air emissions of sulfur dioxide or oxides or nitrogen (measured as a percentage removed) associated with coal utilization or, if providing less than significant reductions (measured as a percentage removed), the technology deployed will achieve reductions at a cost per ton of reductions which is substantially less than the cost associated with conventional technology;

"(4) the technology to be deployed will result in a reduction of emissions of sulfur dioxide or oxides of nitrogen at a cost which is equal to or less than the cost of achieving comparable emission reductions with conventional technology; and

"(5) the project will utilize as a feedstock coal mined in the United States and the location of the facility will be in the United States.

In selecting among projects for assistance which have similar reduction potential, both with respect to the rate of emissions and the transboundary movement of air pollutants which may be the precursors of acid deposition, the Secretary acting jointly with the Administrator shall give priority to those projects which achieve reductions at the least cost per ton of reductions achieved and which would be appropriate for retrofit at existing sources of air emissions which utilize high-sulfur coal.

"(e) REVIEW BY THE ADMINISTRATOR.—The Secretary shall not select any project for assistance under this part unless the Administrator shall first have made a determination that the proposed project satisfies each of the criteria established by subsection (d) of this section.

"(f) PROHIBITIONS.—The Secretary or the Administrator shall not select for assistance any project which incorporates reductions in air emissions of sulfur dioxide or oxides of nitrogen which are required according to a State implementation plan developed and approved pursuant to section 110 of this Act. No reductions in air emissions of sulfur dioxide or oxides of nitrogen which is achieved by a source through the deployment of clean coal technology in a project assisted under this part shall be available for banking or trading to achieve compliance with a State implementation plan by any other source of such emissions.

"(g) NOTIFICATION.—The Secretary and the Administrator shall select or refuse to select a project for assistance under this section within 90 days of receiving the completed application. In the case of a refusal to select a project for assistance, the Secretary and the Administrator shall notify the applicant within such 90-day period of the reasons for refusal.

"(h) COST-SHARING.—In providing financial assistance under this part to a clean coal technology project, the Secretary acting jointly with the Administrator shall endeavor to enter into agreements and make other arrangements for maximum possible cost-sharing with State and local agencies, utility companies, technology vendors and other persons. Total Federal funds for any project shall not exceed 70 per centum of the cost of the project (including the entire capital cost and operating costs over a five-year period beginning on the date on which operation of the technology commences) estimated at the time of the award of such assistance. The owner or operator of the facility (or any other project sponsor) shall not be required to reimburse the United States from future revenues of the project.

"(i) FURTHER PROVISIONS.—

"(1) The Secretary may vest fee title or other property interests acquired through assistance of any clean coal technology project in any entity including the United States.

"(2) Cost-sharing by the owner or operator of the facility (or other project sponsor) is required in each of the design, construction and operating phases of the project.

"(3) Financial assistance for costs in excess of those estimated as of the date of the award of original financial assistance may not be provided in excess of the proportion of costs borne by the Government in the original agreement and only up to 25 per centum of the original financial assistance.

"(4) Other appropriated Federal funds may not be used for cost-sharing by the owner or operator of the facility (or other project sponsor).

"(5) Existing facilities, equipment and supplies or previously expended research and development funds are not cost-sharing for purposes of this part except as amortized, depreciated, or expensed in normal business practice.

"(j) RECONSTRUCTION.—No project which receives financial assistance under this part shall be deemed to be a significant modification or reconstruction which would require compliance with a new source performance standard promulgated pursuant to section 111 of this Act by the source at which the project is carried out.

"ADVISORY COMMITTEE

"SEC. 194. (a) Not later than 90 days after the date of enactment of this part, the Secretary acting jointly with the Administrator shall establish, according to the provisions of the Federal Advisory Committee Act (5 U.S.C. app 1, et seq.), a Clean Coal Technologies Advisory Committee composed of the Secretary and the Administrator, or the Secretary's or Administrator's designees, who shall be co-chairs, and ten members appointed by the Secretary and the Administrator who shall be selected from representatives of State and local governmental agencies or interstate or regional planning organizations with air pollution control responsibilities and who by their experience or technical expertise can advise, consult with, and make recommendations to the Secretary or the Administrator on matters of policy relating to the control of air emissions which may be precursors of acid deposition and the selection of clean coal technology projects which satisfy the criteria of section 193(d) of this Act. Five members shall be selected by the Secretary and five members shall be selected by the Administrator. The Committee shall also include three representatives of Canada who shall be nominated by the Minister of Environment Canada for service on the Committee.

"(b) TERMS.—Each member of the Committee (with the exception of the Chair) shall hold office for a term of three years and members shall be eligible for reappointment.

"(c) SUPPORT.—Such clerical and technical assistance as may be necessary to discharge the duties of the Committee shall be provided from personnel of the Department of Energy.

"(d) COMPENSATION.—Members of the Committee (with the exception of the Chair) shall, while attending meetings or conferences of the Committee or otherwise engaged in business of the Committee, receive compensation and allowances at a rate to be fixed by the Secretary, but not exceeding the daily equivalent of the annual rate of base pay in effect for Grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Committee. While away from their homes or regular places of business in the performance of services for the Committee, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

"(e) EXCEPTION.—Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. app 14), relating to termination, shall not apply to the Committee established by this section.

"AUTHORIZATIONS

"SEC. 195. (a) There are authorized to be appropriated to carry out the provisions of this part $500,000,000 in each of the fiscal years ending September 30, 1988, 1989, 1990, 1991 and 1992.

"(b) The sums authorized by this section shall be in addition to the amounts available from the Clean Coal Technology Reserve established pursuant to Public Law 98-473".

ECONOMIC REGULATION

"SEC. 203. (a) For purposes of determining whether the rates and charges of any public utility, as defined in section 201(e) of the Federal Power Act, are just and reasonable under sections 205 and 206(a) of such Act, the Federal Energy Regulatory Commission shall apply the following criteria—

(1) any expenditure by such utility (not including assistance under this Act) for the design and engineering of a clean coal technology project which receives financial assistance under this Act shall be allowed as an operating expense;

(2) any capital cost of such utility (not including assistance under this Act) incurred to retrofit, repower or modernize an existing facility with a clean coal technology as part of a project assisted under this Act shall be included in the rate base when incurred, except to the extent such cost is allowed as an expense under paragraph (1) of this subsection.

(3) on application of the public utility, the Federal Energy Regulatory Commission shall allow any capital cost of the utility incurred to retrofit, repower or modernize an existing facility with clean coal technology as a part of a project assisted under this Act (to the extent not allowed as an operating expense under paragraph (1)) to be amortized over a 5-year period beginning with the calendar year in which facility or clean coal technology is placed in service and a return shall be allowed on the unamortized amount.

(4) there is a rebuttable presumption that any expenditure or capital cost incurred by a utility for a clean coal technology project assisted under this Act is prudent.

(b) The Secretary of the Department of Energy, by rule after concurrence by the Administrator of the Environmental Protection Agency, may designate one or more clean coal technologies as eligible, in whole or in part, for the regulatory treatment provided in subsection (a) of this section. Projects using such designated technology, including projects which have not received assistance under part F of the Clean Air Act, shall only be granted such treatment to the extent that they satisfy the criteria established by section 193(d) of such Act.

(c) The Federal Energy Regulatory Commission may exempt any person from any provision of the Public Utility Holding Company Act and parts II and III of the Federal Power Act to the extent—

(1) either Act applies by reason of ownership or operation of any federally assisted clean coal technology project or any project using designated clean coal technology;

(2) the Commission determines such an exemption is necessary to permit such person to participate in such project.

FUEL USE ACT

SEC. 204. Notwithstanding any provision of the Powerplant and Industrial Fuel Use Act of 1978 or any other law, natural gas may be used in a major fuel burning installation which is coal fired (as defined in such Act), whether existing or new, to the extent that such gas is used as part of a clean coal technology, such as reburning, which achieves cost effective reductions in air emissions of sulfur dioxide or oxides of nitrogen. This section shall not be construed, interpreted or applied to allow the use of natural gas as the primary fuel in any such installation and the Secretary may by regulation require that any person using natural gas in such installation obtain a temporary or permanent exemption from the prohibitions of such Act before the clean coal technology is put into operation.

TITLE III—ACID DEPOSITION REDUCTION TRUST FUND

ESTABLISHMENT OF TRUST FUND

SEC. 301. (a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Acid Deposition Reduction Trust Fund", consisting of such amounts as may be appropriated or transferred to such trust fund under this title.

(b) TRANSFERS TO THE TRUST FUND.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Acid Deposition Reduction Trust Fund established by subsection (a) amounts determined by the Secretary of the Treasury to be equivalent to the revenues received in the Treasury under section 403 of this title.

(c) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Acid Deposition Reduction Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such trust fund.

(2) LIMITATIONS ON ADVANCES TO THE TRUST FUND.—The maximum aggregate amount of repayable advances to the Acid Deposition Reduction Trust Fund which is outstanding at any one time shall not exceed an amount which the Secretary of the Treasury estimates will be equal to the sum of the amounts which will be appropriated or transferred to such trust fund under subsection (b) less the amounts necessary to pay interest on outstanding repayable advances.

(3) REPAYMENT OF ADVANCES.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Acid Deposition Reduction Trust Fund. Such interest shall be at rates computed in the same manner as provided in subsection 404(b) and shall be compounded annually.

TRUST FUND EXPENDITURES

SEC. 302. (a) Acid Deposition Control Program.—Amounts in the Acid Deposition Reduction Trust Fund established under section 401 of this title shall be available only for the purposes of making expenditures under section 188 of the Clean Air Act or to pay interest costs to the general fund on repayable advances as provided in section 401(c) of this title.

(b) CLEAN COAL TECHNOLOGY PROGRAM.—Notwithstanding the provisions of subsection (a), there are available to be appropriated from the Acid Deposition Reduction Trust Fund for the purposes of carrying out title II of this Act relating to a Clean Coal Technology deployment program not to exceed $500,000,000 in each of the fiscal years ending September 30, 1988, 1989, 1990, 1991 and 1992.

(c) STATE GRANTS FOR REDUCTION PROGRAMS.—Notwithstanding the provisions of subsection (a), there are available to be appropriated from the Acid Deposition Reduction Trust Fund for the purposes of developing and implementing State reduction plans as provided in section 184 of the Clean Air Act not to exceed $20,000,000 in each fiscal year beginning on September 30, 1988 and ending September 30, 1997.

(d) STATE GRANTS TO IMPLEMENT DEPOSITION STANDARD.—Notwithstanding the provisions of subsection (a), there are available to be appropriated from the Acid Deposition Reduction Trust Fund for the purposes of assisting States in implementing national standards for acid deposition established pursuant to section 503 of this Act not to exceed $15,000,000 in each fiscal year beginning September 30, 1988.

IMPOSITION OF FEES

SEC. 303. (a) EMISSIONS FEES.—There is hereby imposed a fee on—

(1) emissions of sulfur dioxide from major stationary sources (as defined under section 302(j) of the Clean Air Act) in the United States;

(2) emissions of oxides of nitrogen from major stationary sources (as defined under section 302(j) of the Clean Air Act) in the United States; and

(3) emissions of oxides of nitrogen from light-duty motor vehicles (as defined under section 202(b)(3)(B) of the Clean Air Act) in the United States.

(b) EFFECTIVE DATES OF FEES.—The fees imposed by subsection (a) shall take effect on January 1, 1988 and shall terminate on December 31, 2017.

(c) RATES.—The Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall establish the rates of the fees imposed by subsection (a) such that in the judgment of the Secretary the total amount received due to such fees during the period from January 1, 1988 through December 31, 1997 shall be $20,000,000,000; the total amount received due to such fees during the period from January 1, 1998 through December 31, 2007 shall be $15,000,000,000; and the total amount received due to such fees during the period from January 1, 2008 through December 31, 2017 shall be $15,000,000,000. Such rates shall be established so that—

(1) two-thirds of each such amount will be received from the fee imposed under subsection (a)(1);

(2) one-sixth of each such amount will be received from the fee imposed under section (a)(2); and

(3) one-sixth of each such amount will be received from the fee imposed under subsection (a)(3).

Notwithstanding the provisions of this subsection, the rate of the fees imposed by subsection (a) for major sources of sulfur dioxide emissions shall not be less than $125 per ton of such emissions for sources with an emissions rate in excess of 1.2 pounds of sulfur dioxide per million British thermal units of heat input; $250 per ton of such emissions for sources with an emissions rate in excess of 2.0 pounds of sulfur dioxide per million British thermal units of hear input; and $500 per ton of such emissions for sources with an emissions rate in excess of 4.0 pounds of sulfur dioxide per million British thermal units of heat input. Emissions rates for purposes of establishing rates of fees under this subsection shall be based on quarterly averages.

(d) TAXABLE ENTITY.—

(1) The fees imposed under subsection (a)(1) and (a)(2) shall be paid by the operator of each major stationary source of such emissions.

(2) The fees imposed under subsection (a)(3) attributable to light-duty motor vehicles (as defined under section 202(b)(3)(B) of the Clean Air Act) shall be paid at the time of first sale by the ultimate purchaser (as defined under section 216(5) of the Clean Air Act) of each such light-duty motor vehicle sold in the United States after December 31, 1987.

(e) ADJUSTMENT OF RATES.—

(1) The Secretary of the Treasury is authorized to adjust the rate of fees established under subsection (c) to better comply with the requirements of such subsection in light of accumulated experience. Such adjustments as the Secretary determines appropriate shall take effect on January 1, 1993, 1998, 2003, 2008 and 2013.

(2) The Secretary of the Treasury is authorized to modify the rate established under subsection (c) with respect to the operator of a specific fossil fuel fired steam generating unit which will be installing a technological system of continuous emission reduction to comply with an emission limitation under sections 110, 181 or 182 of the Clean Air Act during the period that such rate will be in effect. Such modification shall establish a fee of equal annual amounts during such period, based on the average of emission levels expected prior to and subsequent to the installation and operation of such technological system.

(3) The Secretary of the Treasury is authorized to establish the rate of the fee imposed under subsection (a)(1) and (a)(2) on the basis of ranges of quantities of sulfur dioxide or oxides of nitrogen emitted from a class of major stationary sources, in lieu of a strict per-unit-of-weight rate, if it is enforceable and produces adequate revenue, without imposing monitoring costs which bear no reasonable relationship to the revenues received from such sources.

ADMINISTRATIVE PROVISIONS

SEC. 304. (a) METHOD OF TRANSFER.—The amounts appropriated by section 401(b) shall be transferred at least monthly from the general fund of the Treasury to the trust fund established by section 401(a) on the basis of estimates made by the Secretary of such amounts. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) INVESTMENT.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Acid Deposition Reduction Trust Fund established by section 401(a) as is not, in the judgement of the Administrator of the Environmental Protection Agency, required to meet current obligations. Such investments shall be in public debt securities with maturities suitable for the needs of such trust fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of such trust fund.

(c) MONITORING REQUIREMENT.—The Secretary may by rule require that each stationary source subject to an emissions fee

under section 303(a) install continuous emission monitoring devices which shall be in operation not later than January 1, 1988 to assure compliance with the provisions of this title.

(d) REPORT.—The Secretary of the Treasury shall be the trustee of the Acid Deposition Reduction Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1988, on the financial condition and results of the operations of the trust fund during such fiscal year and on its expected condition and operation during the next five fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made.

TITLE IV—MOBILE SOURCES

ESTABLISHMENT OF STANDARDS

SEC. 401. (a) Section 202(b)(1)(B) of the Clean Air Act is amended by adding at the end thereof the following new sentence: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during and after model year 1990 shall contain standards which provide that such emissions may not exceed 0.4 grams per vehicle mile.".

(b) Section 202(a)(3) of the Clean Air Act is amended by inserting after subparagraph (E) the following new subparagraphs and redesignating succeeding subparagraphs accordingly:

"(F) Regulations under paragraph (1) applicable to emissions from heavy-duty vehicles and engines manufactured during and after model year 1991 shall contain standards which provide that such emissions may not exceed 4.0 grams per brake horsepower-hour of oxides of nitrogen. Regulations under paragraph (1) applicable to heavy-duty vehicles and engines manufactured during and after model year 1995 shall contain standards which provide that such emissions may not exceed 1.7 grams per brake horsepower-hour of oxides of nitrogen.

"(G) Regulations under paragraph (1) applicable to emissions from light-duty trucks and engines manufactured during and after model year 1990 shall contain standards which provide that such emissions may not exceed 0.5 gram per vehicle mile of oxides of nitrogen. For the purposes of this subparagraph, the terms light-duty truck and engine mean any motor vehicle (including the engine thereof) with a gross vehicle weight (as determined under regulations promulgated by the Administrator) of 8,500 pounds or less and a curb weight of 6,000 pounds or less as determined under regulations promulgated by the Administrator) and which—

"(i) is designed primarily for purposes of transportation of property or is a derivation of such a vehicle,

"(ii) is designed primarily for transportation of persons and has a capacity of more than 12 persons, or

"(iii) has special features enabling off-street or off-highway operation and use.".

USEFUL LIFE

SEC. 402. Section 202(d)(1) of the Clean Air Act is amended by inserting after "occurs" the following: ", except that with respect to any catalytic converter or other component designed for emission control, for the purposes of section 207(a)(3), useful life shall be a period of use of ten years or of one hundred thousand miles, whichever first occurs".

CERTIFICATE OF CONFORMITY

SEC. 403. Section 206(b)(2)(A) of the Clean Air Act is amended by adding the following new clause:

"(iii) A certificate of conformity shall be suspended or revoked under clause (i) if less than 90 per centum of the new vehicles or engines tested in any sample or sampling period conform with the regulations with respect to which the certificate of conformity was issued.".

EMISSIONS CONTROL INSPECTION

SEC. 404. After January 1, 1988, a vehicle emission control inspection and maintenance program required by section 172(b)(11)(B) of the Clean Air Act or, in areas where there is no such program operating, and inspection program required by applicable vehicle safety laws of a State, shall require emissions testing or direct inspection of components of vehicle emissions control systems (including evidence of misfueling) and, where such components have been rendered inoperative, the replacement or repair of such components, for systems or components related to the control of emissions of oxides of nitrogen.

DIESEL FUEL STANDARD

SEC. 405. Section 211 of the Clean Air Act is amended by adding the following new subsection:

"(h) After July 1, 1988, the sale of diesel fuel for use in motor vehicles, which fuel has a sulfur content in excess of the average sulfur content of gasoline sold in the United States during 1985, shall be prohibited. No later than January 1, 1988, the Administrator shall publish a determination of the allowable level of sulfur in diesel fuel under this subsection. Unless and until each determination is published, such allowable level of sulfur shall be 0.05 percent by weight.".

ONBOARD CONTROLS

SEC. 406. Section 202(a)(6) of the Clean Air Act is amended to read as follows:

"(6) Not later than 6 months after the enactment of this paragraph, the Administrator shall promulgate regulations requiring the use of onboard hydrocarbon control technology certified to operate effectively with fuels having a Reid vapor pressure of not less than 10.0 pounds per square inch by vehicles manufactured for any model year after model year 1990."

MOTOR FUEL VAPOR PRESSURE

SEC. 407. Section 211 of the Clean Air Act is amended by adding the following new subsection:

"(i) The Administrator shall promulgate regulations under this subsection requiring that the Reid vapor pressure of gasoline shall not exceed 9.0 pounds per square inch and that the Reid vapor pressure of alcohol-blended fuels shall not exceed 10.0 pounds per square inch. After January 1, 1989, no manufacturer or importer of gasoline may sell, offer for sale, or introduce into commerce any base fuel or blended fuel which does not comply with such regulations.".

TITLE V—OTHER PROVISIONS

NATIONAL AMBIENT AIR QUALITY STANDARDS

SEC. 501. Section 109 of the Clean Air Act (42 U.S.C. 7409) is amended by adding the following new subsections after subsection (c) and relettering the remaining subsections accordingly:

"(d) The Administrator shall, not later than twelve months after the date of enactment of this subsection, propose a national primary ambient air quality standard for sulfur dioxide concentrations over a period of not more than 1 hour which is consistent with subsection (b)(1), unless, based on criteria issued under section 108, the Administrator first finds that there is no significant evidence that such a standard is requisite to protect public health allowing an adequate margin of safety. After notice and opportunity for public comment on a proposed standard, but not later than January 1, 1990, the Administrator shall promulgate such a standard, unless the Administrator has made a finding that such a standard is not requisite to protect public health allowing an adequate margin of safety. In the event the Administrator fails to promulgate a national primary ambient air quality standard for sulfur dioxide and fails to make the finding provided for in this subsection, on and after January 1, 1990 there shall be national primary ambient air quality standard over a 1 hour period for sulfur dioxide which shall be 0.2 parts per million of sulfur dioxide expected to be exceeded not more than once per year and which shall be in addition to any other standard for sulfur dioxide which has been established.

"(e) The Administrator shall, not later than twelve months after the date of enactment of this subsection, propose a national primary ambient air quality standard for nitrogen dioxide concentrations over a period of not more than 1 hour which is consistent with subsection (b)(1), unless, based on criteria issued under section 108, the Administrator finds that there is no significant evidence that such a standard is requisite to protect public health allowing an adequate margin of safety. After notice and opportunity for public comment on a proposed standard, but not later than January 1, 1990, the Administrator shall promulgate such a standard, unless the Administrator has made a finding that such a standard is not requisite to protect public health allowing an adequate margin of safety. In the event the Administrator fails to promulgate a national primary ambient air quality standard for nitrogen dioxide and fails to make the finding provided for in this subsection, on and after January 1, 1990 there shall be national primary ambient air quality standard over a 1 hour period for nitrogen dioxide which shall be 0.3 parts per million of nitrogen dioxide expected to be exceeded not more than once per year and which shall be in addition to any other standard for nitrogen dioxide which has been established.

"(f) The Administrator shall, not later than thirty months after the date of enactment of this subsection, propose a revision of the national primary ambient air quality standard for ozone concentrations. The proposed revised primary ozone standard shall include a primary standard over a 1 hour period and a primary standard which addresses subchronic human health effects and which is averaged over a period not to exceed 24 hours both of which standards shall be consistent with subsection (b)(1) unless, based criteria issued under section 108, the Administrator first finds that there is no significant evidence that either or both of such standards is requisite to protect public health allowing an adequate margin of safety. After notice and opportunity for public comment on proposed standards, but not later than July 1, 1991, the Administrator shall promulgate such revised standards, unless the Administrator has made a finding that either or both such standards is not requisite to protect public health allowing an adequate margin of safety. In the event

the Administrator fails to promulgate a national primary ambient or quality standard for the subchronic human health effects of ozone concentrations and fails to make the finding with respect to such standards provided for in this subsection, on and after July 1, 1991 there shall be a national primary ambient air quality standard over a 1 hour period for ozone concentrations which shall be 0.08 parts per million of ozone expected to be exceeded not more than once per year and which shall be in addition to any other standard for ozone which has been established.

"(g) The Administrator shall, not later than thirty-six months after the date of enactment of this subsection, propose a national primary ambient air quality standard for acid aerosols along with their precursors including sulfates, nitrates and other fine particles which shall be in addition to any national primary ambient air quality standard of particulate matter which has been established and which is consistent with subsection (b)(1) unless, based on criteria issued under section 108, the Administrator first finds that there is no significant evidence that such a standard is requisite to protect public health allowing an adequate margin of safety. After notice and opportunity for public comment on a proposed standard, but not later than January 1, 1992, the Administrator shall promulgate such a standard unless the Administrator has made a finding that such a standard is not requisite to protect public health allowing an adequate margin of safety.

"(h) The Administrator shall, not later than thirty-six months after the date of enactment of this subsection, propose a national secondary ambient air quality standard or standards for ozone concentrations consistent with subsection (b)(2) unless, based on criteria issued under section 108, the Administrator finds that there is no significant evidence that such a standard is requisite to protect soils, waters, crops, forests, vegetation materials, visibility or other elements of public welfare. The proposed standard or standards shall take into account both short-term and seasonal effects of ozone concentrations on crops and forests. After notice and opportunity for public comment on proposed standard or standards, but not later than January 1, 1992, the Administrator shall promulgate such a standard or standards, unless the Administrator has made a finding that such a standard or standards is not requisite to protect public welfare as provided in this subsection. In no event shall any such standard be identical to the national primary ambient air quality standard of ozone absent a determination by the Administrator, based on criteria issued under section 108, that an identical standard is nevertheless adequate to protect soils, waters, crops, forests, vegetation, materials, visibility or other elements of public welfare.

"(i) The Administrator shall, not later than thirty-six months after the date of enactment of this subsection, propose a national secondary ambient air quality standard for fine particles with an aerodynamic diameter smaller than or equal to 2.5 micrometers consistent with subsection (b)(2) unless, based on criteria issued under section 108, the Administrator finds that there is no significant evidence that such a standard is requisite to protect crops, waters, forests, vegetation, materials, visibility or other elements of public welfare. After notice and opportunity for comment on a proposed standard, but not later than January 1, 1992, the Administrator shall promulgate such a standard, unless the Administrator has made a finding that such a standard is not necessary to protect crops, waters, forests, vegetation, materials, visibility or other elements of public welfare.".

IMPLEMENTATION OF SECONDARY STANDARDS

SEC. 502. (a) Section 110(a)(1) of the Clean Air Act is amended by striking the last sentence and inserting in lieu thereof, "Each State shall conduct a separate public hearing on the elements of its plan (or revisions thereof) implementing national secondary ambient air quality standards.".

(b) Section 110(a)(1)(A) of the Clean Air Act is amended by striking "and" before "(ii)" and by inserting at the end thereof, "and (iii) in the case of a plan implementing a national secondary ambient air quality standard for ozone or fine particles as required by section 109 (h) and (i), it provides for the attainment of such secondary standards as expeditiously as practicable but (subject to subsection (e)) in no case later than three years from the date of approval of such plan (or any revision thereof to take account of a revised secondary standard);".

(c) Section 110(b) of the Clean Air Act is amended by adding at the end thereof, "Only one such extension shall be made for any State for any secondary standard or revision thereof.".

(d) Section 110(e) of the Clean Air Act is amended by adding at the end thereof—

"(3) Subject to the same conditions which apply to an extension under paragraph (1), upon application of a Governor of a State at the time of submission of any plan implementing a national secondary ambient air quality standard for ozone concentrations or for fine particles, the Administrator may extend the three-year period referred to in subsection (a)(2)(A)(iii) for not more than two years for an air quality control region.".

ACID DEPOSITION STANDARDS FOR SENSITIVE AREAS

SEC. 5303. (a) Part A of the Clean Air Act is amended by adding at the end thereof the following new section—

"ACID DEPOSITION STANDARD

"SEC. 129. (a) PURPOSE.—It is the purpose of this section to establish acid deposition standards that will assure protection of sensitive and critically sensitive aquatic and terrestrial resources in the event that the acid deposition control program required by part E of this Act is not sufficient to reduce the deposition of acidic pollutants to levels below the threshold for adverse effects in every region of the Nation.

"(b) DEFINITIONS.—For purposes of this section—

"(1) the term "sensitive" with respect to aquatic resources means lakes, streams or other surface waters with an acid neutralizing capacity of 200 microequivalents per liter (200 ue/1) of alkalinity or less; and

"(2) the term "critically sensitive" with respect to acquatic resources means lakes, stream segments or other surface waters with an acid neutralizing capacity of 40 microequivalents per liter (40 ue/1) of alkalinity or less.

"(c) INVENTORY OF SENSITIVE RESOURCES.—

"(1) REPORT.—Not later than 24 months after the date of enactment of this section, the Governor of each State shall, after opportunity for public participation, prepare and submit to the Administrator for approval a report which identifies those sensitive and critically sensitive aquatic and terrestrial resources within the State. Such report shall identify the county in which each sensitive or critically sensitive resource is located and include information on which the identification has been made.

"(2) GUIDANCE.—Not later than 9 months after the date of enactment of this section, the Administrator shall publish guidance which would be useful to the States in preparing reports required by paragraph (1). The guidance may include definitions of sensitive and critically sensitive terrestrial resources and may include factors in addition to acid neutralizing capacity, such as effects on aquatic life, wildlife and human health, for the purpose of indentifying sensitive or critically sensitive resources.

"(3) ASSISTANCE.—Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in preparing the report required by this subsection. Funds reserved pursuant to section 302(d) of the National Acid Deposition Reduction Act of 1987 shall be appropriated in amounts not to exceed $15,000,000 for fiscal years 1988 and 1989 to carry out the purposes of this subsection.

"(4) APPROVAL.—Not later than 180 days after the date of submission to the Administrator of any State report under this subsection, the Administrator shall either approve or disapprove such report as an adequate identification of sensitive and critically sensitive resources within such State. If the Administrator does not disapprove a report within such 180-day period, it shall be deemed approved.

"(5) FAILURE OF A STATE TO SUBMIT REPORT.—If a Governor of a State does not submit the report required by paragraph (1) within the period specified or if the Administrator disapproves that report submitted, the Administrator shall within 36 months of the date of enactment of this section, prepare the report for such State making the identifications of sensitive and critically sensitive acquatic and terrestrial resources as provided by paragraph (1).

"(6) INVENTORY.—Not later than 36 months after the date of enactment of this section, the Administrator shall propose a national inventory of sensitive and critically sensitive aquatic and terrestrial resources based on the reports developed pursuant to paragraphs (1) and (5). After notice and opportunity for public comment, but not later than 48 months after the date of enactment of this section, the Administrator shall promulgate the national inventory as an informal rule-making.

"(7) ADDITIONS.—Subsequent to the promulgation of the national inventory as required by paragraph (6) any person may petition the Administrator to add or delete aquatic or terrestrial resources from the inventory. The Administrator shall schedule a hearing on any such petition within 60 days and grant or deny any such petition with 180 days of the hearing. Petitions not granted within such period shall be deemed denied for the purposes of review pursuant to section 307 of this Act. The Administrator shall promulgate regulations for the implementations of this paragraph.

"(d) ESTABLISHMENT OF STANDARDS.—

"(1) SENSITIVE AQUATIC RESOURCES.—Not later than 24 months after the date of enactment of this section, the Administrator shall, based on criteria issued under section 108(g), propose a national standard for acid deposition, including both wet and dry deposition, which shall be set at a level sufficient to protect sensitive aquatic resources from any adverse effect which may result from

such deposition. After notice and opportunity for public comment on such proposed standard, but not later than 36 months after the date of enactment of this section, the Administrator shall promulgate such standard. In the event the Administrator fails to promulgate a national standard for acid deposition with respect to sensitive aquatic resources as provided by this paragraph, on and after July 1, 1991 there shall be a national standard for acid deposition with respect to sensitive aquatic resources of not to exceed 20 kilograms of wet sulfate per hectare per year.

"(2) CRITICALLY SENSITIVE AQUATIC RESOURCES.—Not later than 24 months after the date of enactment of this section, the Administrator shall, based on criteria issued under section 108(g), propose a national standard for acid deposition, including both wet and dry deposition, which shall be set at a level sufficient to protect critically sensitive aquatic resources from any adverse effect which may result from such deposition. After notice and opportunity for public comment on such proposed standard, but not later than 36 months after the date of enactment of this section, the Administrator shall promulgate such standard. In the event that the Administrator fails to promulgate a national standard for acid deposition with respect to critically sensitive resources as provided by this paragraph, on and after July 1, 1991 there shall be a national standard for acid deposition with respect to critically sensitive aquatic resources of not to exceed 16 kilograms of wet sulfate per hectare per year.

"(3) TERRESTRIAL RESOURCES.—The Administrator may, based on criteria issued under section 108(g) and after notice and opportunity for public comment, promulgate a national standard or standards for acid deposition, including both wet and dry deposition, with respect to terrestrial resources which shall be set at a level sufficient to protect such resources from any adverse effect which may result from acid deposition.

"(e) DEPOSITION CONTROL PLANS.—

"(1) IN GENERAL.—Not later than January 1, 1993, the Governor of each State in which a sensitive or critically sensitive aquatic or terrestrial is located shall submit to the Administrator a deposition control plan contain provisions adequate to assure protection of such resources from the adverse effects of acidic deposition. The plan shall identify those sources (or groups of sources) both within the State and in other States of air emissions which are precursors of acidic deposition the further control of which is reasonably necessary to assure protection of the sensitive and critically sensitive resources. The deposition control plan shall identify emissions reductions at such sources (or groups of sources) necessary to assure that standards established under subsection (c) are not exceeded more frequently that twice in each 10-year period and that no exceedance is in an amount more than 120 per centum of the standards. The deposition control plan submitted under this section shall include amendments to the State's implementation plan developed and approved under section 110 providing enforceable measures including emissions limitations and compliance schedules for sources within the State adequate to achieve the reductions in emissions identified for such sources in the deposition control plan.

"(2) GUIDANCE.—Not later than 24 months after the date of enactment of this section, the Administrator shall publish guidance which would be useful to the States in preparing the deposition control plans required by this subsection. The guidance shall specify the methodology (including modeling of atmospheric transport and transformation processes) which the Administrator deems appropriate to identify the sources (or groups of sources) and the associated emissions reductions which are reasonably necessary to assure compliance with the deposition standards established under subsection (c).

"(3) ASSISTANCE.—Upon application of a State, the Administrator may make grants subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing the deposition control plan required by this subsection. Funds reserved pursuant to section 302(d) of the National Acid Deposition Reduction Act of 1987 shall be appropriated in amounts not to exceed $15,000,000 for each fiscal year ending after September 30, 1989 to carry out the purposes of this subsection.

"(4) REVIEW AND APPROVAL.—Not later than 180 days after receiving a deposition control plan submitted by a State pursuant to the provisions of paragraph (1), and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such deposition control plan. The Administrator shall disapprove any deposition control plan submitted by a State, if the Administrator determines that such deposition control plan—

"(A) does not assure compliance with the deposition standards for sensitive and critically sensitive aquatic and terrestrial resources as provided in paragraph (1);

"(B) does not reasonably allocate identified emissions reductions among sources (or groups of sources) within the State and other States;

"(C) does not contain enforceable requirements including emissions limitation and compliance schedules for sources within the State adequate to achieve reductions in emissions identified for such sources in the deposition control plan; or

"(D) does not contain adequate provisions for the construction and operation of deposition monitoring devices within each county containing a sensitive or critically sensitive resource to assure that deposition standards are being met.

If the Administrator disapproves a deposition control plan which has been submitted pursuant to this subsection, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State shall have 180 days to revise and resubmit the proposed deposition control plan for approval pursuant to the provisions of this subsection.

"(5) FAILURE OF A STATE TO SUBMIT A PLAN.—The Administrator shall promptly prepare and publish proposed regulations setting forth a deposition control plan for a State, if—

"(A) the State fails to submit a deposition control plan which meets the requirements of this subsection;

"(B) the plan, or any portion thereof, submitted for such State is determined by the Administrator not to be in accordance with the requirements of this subsection; or

"(C) the State fails, within 120 days after notification by the Administrator, to revise a deposition control plan as required by the Administrator to assure protection of sensitive and critically sensitive resources.

"(f) SIP MODIFICATIONS.—

"(1) IN GENERAL.—Pursuant to the authorities of section 110 and the provisions of section 110(a)(2) (E) and (H), the Administrator shall require modification of the implementation plan for each State containing a source (or group of sources) identified pursuant to this section the control of which is reasonably necessary to assure that the deposition standards for sensitive and critically sensitive resources in an adjacent or distant State (or States) are satisfied. Such modifications shall provide enforceable requirements including emissions limitations and compliance schedules adequate to achieve the reductions in emissions identified for such sources in the deposition control plans approved by the Administrator under this section.

"(2) SCHEDULE.—The Administrator shall publish the first round of the modifications required by paragraph (1) not later than January 1, 1994 which shall be implemented by the States according to the provisions of section 110. A second round of such modifications shall be published by the Administrator not later than January 1, 1998 and be implemented by the States according to the provisions of section 110. Following the second round of such modifications, the Administrator shall periodically, but not less often than every 5 years, review the results of monitoring conducted pursuant to subsection (e)(4)(D) and assure that deposition standards for sensitive and critically sensitive resources are met according to the requirements of subsection (e)(1).

"(g) STATE AUTHORITY.—Nothing in this section shall preclude or deny the right of any State to adopt or enforce any regulation, requirement or standard with respect to emissions, ambient concentrations and the deposition of acid compounds and their precursors within such State which is more stringent than a regulation, requirement or standard in effect under this section except that no such State regulation, requirement or standard shall be the basis for control requirements imposed under this section or section 110 on sources of air emissions of such pollutants in other States."

(b) Section 108 of the Clean Air Act is amended by adding at the end thereof the following new subsection—

"(g) For the purposes of establishing national acid deposition standards for sensitive and critically sensitive resources pursuant to section 129, the Administrator shall not later than 18 months after the date of enactment of this subsection, issue a criteria document on the deposition of acid compounds which shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health, welfare and the environment which may be expected from the deposition of acidic compounds. The Administrator shall review and revise, as necessary, such criteria every five years."

(c) Section 110(a)(2)(H) of the Clean Air Act is amended by adding "or deposition standard promulgated under section 129" after "inadequate to achieve the national ambient air quality primary or secondary standard".

INTERSTATE POLLUTION

SEC. 504. (a) Section 110(a)(2)(E) of the Clean Air Act is amended—

(1) by inserting "or sources" after "source";

(2) by striking "prevent" and inserting in lieu thereof "interfere with";

(3) by inserting after "visibility," the following: "or (III) contribute to atmospheric

concentrations or loadings of pollutants (whether or not a national primary or secondary ambient air quality standard has been promulgated for such pollutant) or their transformation products or the deposition of such pollutants or transformation products which may reasonably be anticipated to cause or contribute to an adverse effect on public health or welfare or the environment in any other State or foreign country,"; and

(4) by adding at the end thereof, "Not later than January 1, 1989 the Administrator shall promulgate regulations for the implementation of this subparagraph. Such regulations shall specify the methodology (including modeling of atmospheric transport and transformation processes) which the Administration deems sufficient to demonstrate a violation of this subparagraph or section 126. After the date on which such regulations are promulgated, the Administrator shall review all plans submitted (including plans previously submitted) pursuant to this section to assure compliance with this subparagraph and section 126.".

(b) Section 110(a)(4) of the Clean Air Act is amended by striking "within such State".

(c) Section 126 of the Clean Air Act is amended as follows:

(1) by adding a new subsections as follows:

"(d) Emissions of an air pollutant which, by itself or in combination, reaction, or transformation, adversely affects the public health or welfare of another State, is in violation of this section.".

(2) in subparagraph (B) of subsection (a)(1), by striking "in excess of national ambient air quality standards";

(3) in subsection (b)—

(A) in the first sentence, following "Major source", by inserting "or group of sources";

(B) by striking "110(a)(2)(E)(i)" and inserting in lieu thereof "110(a)(2)(E) or this section"; and

(C) by adding at the end thereof, "Any petition pursuant to this subsection not granted or denied within 180 days after such hearing shall be deemed denied and shall be reviewable under section 307.";

(4) in subsection (c)—

(A) in the first sentence, following the words "violation of", inserting "this section and";

(B) striking "110(a)(2)(E)(i)" wherever it appears and inserting in lieu thereof "110(a)(2)(E) of this section";

(C) in paragraph (2) insert before the period the phrase, "or to continue operation in violation of subsection (d) more than two years after the date of such finding without the installation of reasonably available control technology."

(d) Section 302(h) of the Clean Air Act is amended by inserting "precipitation," following "effects on" the second time it appears and by inserting before the period a comma and "whether caused by transformation, conversion, or combination with other air pollutants.".

(e) Section 304(a)(1) of the Clean Air Act is amended by inserting a comma after "Act"; by striking "or"; and by inserting at the end thereof "or, (C) section 110(a)(2)(E) or 126,".

NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM

SEC. 505. Subtitle A of title VII of the Energy Security Act (Public Law 96-294) is amended to read as follows:

"Subtitle A—National Acid Precipitation Assessment Program

"SHORT TITLE

"SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980."

"STATEMENT OF FINDINGS AND PURPOSE

"SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—

"(1) contributes to increasing pollution of the Nation's surface waters;

"(2) adversely affects fish and wildlife resources and aquatic and terrestrial ecosystems generally;

"(3) contributes to the corrosion of metals, woods, paint and masonry used in construction and ornamentation of buildings and public monuments;

"(4) may, in combination with other pollutants including ozone and heavy metals, adversely affect agriculture and forest crops;

"(5) may, directly or indirectly, produce adverse effects on human health; and

"(6) affects environmental resources distant from the sources of emissions which are the precursors of acid precipitation and thus involves issues of national and international policy.

"(b) In addition, Congress finds that—

"(1) other air pollutants, acting alone or in combination with acid precipitation, are contributing to aquatic and terrestrial damage through tropospheric concentration or deposition;

"(2) such pollutants include ozone and its precursors, volatile organic compounds and nitrogen dioxide, which may also be involved in the atmospheric processes producing acid precipitation; and

"(3) such pollutants are produced, transported and deposited through atmospheric processes which call for scientific investigation and study comparable to that devoted to acid precipitation.

"(c) The Congress declares that it is the purpose of this subtitle to—

"(1) identify the causes and sources of acid precipitation;

"(2) evaluate the environmental, social and economic effects of acid precipitation;

"(3) based on the results of the research program established by this subtitle to (A) limit or eliminate the air emissions which provide the precursors of acid precipitation, and (B) mitigate or otherwise ameliorate the adverse effects which have resulted from acid precipitation;

"(4) evaluate the efficiency and effectiveness of a program conducted pursuant to parts E and F of the Clean Air Act to control the air emissions which provide the precursors of acid precipitation; and

"(5) evaluate the environmental, social and economic effects of other transported air pollutants including ozone.

"(d) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds.

"INTERAGENCY TASK FORCE

"SEC. 703. (a) There is hereby established a comprehensive program to carry out the provisions of this subtitle to be called the National Acid Precipitation Assessment Program. To implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force") of which the Administrator of the Environmental Protection Agency shall be chair and who shall be accountable for the progress of the program. The remaining membership of the Task Force shall consist of—

"(1) the Secretary of Agriculture and the Administrator of the National Oceanic and Atmospheric Association;

"(2) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

"(3) the directors of Argonne, Brookhaven, Oak Ridge and Northwest national laboratories; and

"(4) four additional members to be appointed by the President from among nominees selected by the governors of the several States acting through the National Governors Association.

"(b) The Task Force shall convene as necessary, but no less often than twice during each fiscal year.

"(c) The Task Force shall submit to the President and to the Congress not later than January 15 of each year an annual report which shall detail the progress of the program during the preceeding fiscal year and which shall contain such recommendations for legislative or regulatory actions as the Task Force deems appropriate to reduce the damage and injury reulting from acid precipitation and concentrations or deposition of other air pollutants.

"(d) Such technical and clerical support as the Task Force may require shall be provided by the Environmental Protection Agency.

"RESEARCH DIRECTOR

"SEC. 704. The President, by and with the advice and consent of the Senate, shall appoint a research director for the National Acid Precipitation Assessment Program who shall head the staff of the Program. The research director shall be an individual who is, by reason of background and experience, especially qualified to develop and implement research programs and plans with respect to the causes and effects of acid precipitation. The research director shall be compensated at the rate provided for level IV of the Executive Schedule pay rates under section 5315 of title 5, United States Code.

"COMPREHENSIVE RESEARCH PLAN

"SEC. 705. (a) The Task Force shall prepare a comprehensive research plan for the program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation.

(b) The comprehensive plan shall include programs for—

"(1) identifying the natural and anthropogenic sources of air emissions contributing to acid precipitation and other transported air pollutants including ozone;

"(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation including monitoring of wet and dry deposition;

"(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

"(4) development and application of atmospheric transport models to enable prediction of long-range transport of sub-

stances causing acid precipitation and other transported air pollutants including ozone;

"(5) defining geographic areas sensitive to acid precipitation and other transported air pollutants including ozone through deposition monitoring, identification of sensitive and critically sensitive aquatic and terrestrial resources, and identification of areas at risk;

"(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

"(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

"(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

"(9) research on the health and environmental effects caused by tropospheric concentrations and the deposition of transported air pollutants other than acid precipitation including ozone;

"(10) economic assessments of the environmental impacts caused by acid precipitation and other transported air pollutants on crops, forests, fisheries, and recreational and aesthetic resources and structures,

"(11) documenting alternative practices and technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

"(12) documenting the cost and availability of control technologies which can substantially reduce the air emissions which are precursors of acid precipitation and other transported air pollutants including ozone;

"(13) evaluating the reduction in emissions and transport and deposition of air pollutants and the reduction in adverse health and environmental effects resulting from any control program for air emissions which are the precursors of acid precipitation and other transported air pollutants including ozone which may be adopted by the Congress;

"(14) documenting all current Federal activities related to research on acid precipitation and other transported air pollutants including ozone and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

"(15) effecting cooperation in acid precipitation and air pollution research and development programs, on-going and planned, with the affected and contributing States and with other soverign nations having a commonality of interest;

"(16) subject to subsection (d), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

"(17) analyzing the information available regarding acid precipitation and other transported air pollutants including ozone in order to formulate and present periodic recommendations of the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and other forms of transported air pollution and their effects.

"(c) The comprehensive plan—

"(1) shall be submitted in draft form to Congress, and for public review within six months after the date of the enactment of this Act;

"(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

"(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2);

"(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3); and

"(5) shall be reviewed and revised to incorporate the additional authorities and responsibilities assigned to the National Acid Precipitation Assessment Program by the National Acid Deposition Reduction Act of 1987 not later than July 1, 1988. The revised plan shall be circulated to the public for comment for a period of not less than sixty days before the final revised plan is submitted to the President and the Congress.

"(d) Subsection (b)(16) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

"IMPLEMENTATION OF COMPREHENSIVE PLAN

"SEC. 706. (a) The comprehensive plan shall be carried out during the fiscal years following the year in which the comprehensive plan is submitted in its final form under section 705(c) (3) and (5); and

"(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (15) of section 705(b);

"(2) shall be managed in accord with paragraphs (16) and (17) of such section; and

"(3) shall be funded by annual appropriations as provided in section 708 after the submission of the Task Force progress report which under section 703(c) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

"(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

"REDUCTION POLICY ASSESSMENT

SEC. 707. (a) PRELIMINARY ASSESSMENT.—Not later than June 1, 1987 the National Acid Precipitation Assessment Task Force shall transmit to the Congress a document which contains a compendium of research results obtained by the Program to that point and which evaluates the various policy alternatives and control strategies for achieving reduction in air emissions which are the precursors of acid precipitation and other transported air pollutants including ozone in light of such research results. The document shall contain recommendations for modifications in regulation and legislation as may be appropriate to protect human health and environmental resources from the damage and injury which may be caused by tropospheric concentrations and the deposition of such pollutants.

"(b) PUBLIC COMMENT.—The Task Force shall circulate the preliminary assessment broadly and seek public comment thereon in preparation for the development of a final policy assessment as provided in subsection (b). The Task Force shall to the maximum extent practicable maximize public participation in the development of the final assessment by various means including the appointment of a technical advisory committee to assist the Task Force in development of the final assessment.

"(c) FINAL ASSESSMENT.—Not later than January 1, 1990 the Task Force shall transmit to the President and the Congress a document which is a compendium of the research results obtained by the Program and which contains an evaluation of the policy alternatives and control strategies available to reduce air emissions which are the precursors of acid precipitation and other transported air pollutants including ozone. The document shall contain recommendations for modifications in regulation and legislation as may be appropriate to protect human health and environmental resources from the adverse effects of tropospheric concentrations and deposition of such pollutants.

"(d) CONTINUING ANALYSIS.—Following transmittal of the final policy assessment the Task Force shall review and revise the research program to focusing on baseline data gathering and trend analysis with respect to acid precipitation and other transported air pollutants including ozone and the reductions in emissions and deposition of such pollutants which result from any control program implemented by the Federal Government.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 708. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 705 there is authorized to be appropriated to the National Oceanic and Atmospheric Administration for fiscal year 1981 the sum of $5,000,000, to remain available until expended.

"(b) Authorizations of appropriations for the fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 705(c) (3) and (5), for purposes of carrying out the comprehensive program established by section 704(a) and implementing the comprehensive plan under sections 705 and 706, shall be provided on an annual basis in amounts not to exceed $85,000,000.

SUMMARY OF THE ACID DEPOSITION REDUCTION ACT

The goal of the bill is a 12 million ton reduction in sulfur dioxide emissions before January 1, 1997. The major provisions of the bill are as follows:

ACID RAIN CONTROL PROGRAM

Title I of the bill contains a two-phase acid deposition control program. In the first phase each State must meet an average SO2 emissions rate of 2.0 pounds per million Btu at all electric utility plants by 1994. In the second phase each State must achieve average emission rates of not more than 0.9 pounds SO2 and 0.6 pounds NOX per million Btu by 1997. The second phase applies

both to electric utilities and industrial boilers.

CLEAN COAL TECHNOLOGY

Title II of the bill implements the reports of the U.S.—Canadian envoys on acid rain. It provides $2.5 billion in Federal assistance to be matched by the private sector to develop new coal combustion technologies which will be effective in reducing emissions. The projects that are funded under the program must meet each of the criteria established by the envoys including: availability for retrofit at existing sources; providing reductions in transboundary pollution; more cost effective than scrubbers; and adaptable to high sulfur coals.

EMISSIONS TAX

The third title of the bill imposes a $50 billion fee on emissions of sulfur dioxide and nitrogen oxides from stationary and mobile sources. The tax is to be collected over a thirty-year period. Revenues from the tax are to be used to assist utilities in constructing and operating the control systems required by Title I. Two-thirds of the tax is to be collected from SO2 emissions at major stationary sources and one-third of the tax from NO_x emissions from both stationary and mobile sources.

MOBILE SOURCES

Title IV establishes a series of new standards for tailpipe emissions from automobiles and trucks. It also requires a reduction in the vapor pressure of gasoline supplies and the installation of on-board canisters to capture refueling emissions.

STANDARDS

Title V of the bill includes a series of miscellaneous provisions including requirements that EPA review and revise National Ambient Air Quality Standards for SO2, NO2, ozone, acid aerosols and fine particles. EPA is also required to establish acid deposition standards for sensitive environmental resources to be used in conjunction with the technology provisions of the other titles.●

By Mr. SIMON:

S. 1124. A bill to amend title 18, United States Code, to require that telephone monitoring by employers be accompanied by a regular audible warning tone; to the Committee on the Judiciary.

TELEPHONE MONITORING BY EMPLOYERS

● Mr. SIMON. Mr. President, most Americans can be confident that their telephone calls are private, legally protected against eavesdropping. But through a little-known loophole in the Wiretap Act—title III of the Omnibus Crime Control and Safe Streets Act of 1968—some 14,000 employers secretly listen in on the telephone conversations of employees, a practice that affects over 400 million telephone calls each year. Secret monitoring of employees and customers has spread from telephone companies to other industries and is increasingly common whenever the telephone is used in business.

This is a serious invasion of privacy, both for these workers and for the unknowing public who may be party to these calls. Privacy is essential to our dignity and autonomy as individuals. Justice Brandeis called it the right to be left alone—the most comprehensive of rights, the right most valued by a civilized society,[1] and Americans dearly cherish it.

The bill I am introducing today amends the Wiretap Act to require an audible "beep" tone to be used to give notice whenever employers listen in on employee conversations. Monitoring for service quality purposes would still be permitted; secret surveillance would not. Legitimate law enforcement activities would not be affected. This modest proposal is a simple but critical step toward protecting privacy rights. It is endorsed by the AFL–CIO, the American Civil Liberties Union, and others.

I urge my colleagues to join me in cosponsoring this important bill.●

By Mr. CRANSTON:

S. 1125. A bill to amend title 38, United States Code, to authorize modification of the structure of the Office of the Chief Medical Director, to clarify procedures for removal for cause of certain employees, to authorize the use of the director pay grade within VA Central Office and for related purposes; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION DEPARTMENT OF MEDICINE AND SURGERY

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 1125, a bill to authorize modification of the structure of the Office of the Chief Medical Director of the Veterans' Administration, to clarify procedures for removal for cause of certain VA employees, to authorize the use of the director pay grade within VA Central Office, and for related purposes. The Administrator of Veterans' Affairs submitted this legislation by letter dated March 9, 1987, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose any of the provisions of, as well as any amendment to, this legislation. Moreover, I wish to announce that I am opposed to the provisions of the bill which would eliminate the statutory requirement for certain executive positions—the directors of various services—to be established and maintained in the Office of the Chief Medical Director.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 9, 1987, transmittal letter and enclosed section-by-section analysis of the proposed bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That section 4103 of title 38, United States Code, is amended as follows:

(a) paragraph (3) of subsection (a) is amended to read as follows:

"(3) Not to exceed two Associate Deputy Chief Medical Directors, who shall be assistants to the Chief Medical Director and the Deputy Chief Medical Director, appointed by the Administrator upon the recommendation of the Chief Medical Director.".

(b) by striking out paragraphs (4) through (9) of subsection (a).

(c) Subsection (b) is amended to read as follows:

"(b) In addition, the Office of the Chief Medical Director may consist of the following:

(1) Not to exceed seven Assistant Chief Medical Directors, who shall be appointed by the Administrator upon the recommendation of the Chief Medical Director and who shall be qualified doctors of medicine, dental surgery or dental medicine, except that not more than two Assistant Chief Medical Directors may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery or dental medicine.

(2) Such Medical Directors as may be appointed by the Administrator, upon the recommendations of the Chief Medical Director, to suit the needs of the Department. A Medical Director may be a qualified doctor of medicine, dental surgery or dental medicine or a registered nurse qualified in nursing administration.

(3) Such Directors as may be appointed by the Administrator, upon the recommendations of the Chief Medical Director, to suit the needs of the Department.

(4) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.

(5) Such other persons as may be appointed by the Chief Medical Director with the approval of the Administrator to fill positions deemed necessary to accomplish the mission of the Department.".

(d) Subsection (c) is redesignated as subsection (f).

(e) By inserting the following new subsections:

"(c) The Chief Medical Director, with the approval of the Administrator, may establish, consolidate, eliminate, abolish, redistribute, or modify such positions and offices as he deems needed for the Department of Medicine and Surgery to carry out its mission.

(d) Any appointment under section 4103 (a) and (b) shall be for a period of four years, with reappointment permissible for successive like periods. Any such appointment or reappointment may be extended by the Administrator for a period not in excess of three years. Any person appointed or reappointed, designated or redesignated pursuant to this section, including subsection (f), or whose appointment or reappointment, designation or redesignation is extended shall be subject to removal for cause

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[1] *Olmstead* v. *United States,* 277 U.S. 438 (1927).

in the same manner and under procedures similar to those set forth in section 4110 of this title. The members of the Disciplinary Boards in such cases may be any persons appointed pursuant to this subsection.

(e) The appointment, reappointment, or extension of appointment or reappointment of any person pursuant to subsections (a) and (b), whose position is abolished in accordance with subsection (c), shall terminate. Any person who relinquished an appointment made pursuant to section 4104(1) in order to accept an appointment under this section and whose appointment, reappointment, or extension of appointment or reappointment under this section is terminated by reason of abolishment of position, shall be entitled, upon such termination, to reemployment under section 4104(1). Any person who relinquished an appointment in the Federal Civil Service in order to accept an appointment under this section who at the time of such appointment shall have had a civil service status, and whose appointment, reappointment, or extension of appointment or reappointment under this section is terminated by reason of abolishment of position, shall be entitled to reappointment in the Federal civil service in accordance with his or her reinstatement eligibility by virtue of previous civil service appointment and status.".

Section 2. That section 4107 of title 38, United States Code, is amended as follows:

(a) By striking out in subsection (a) all after "Medical Director, $73,958 minimum to $83,818 maximum." and inserting in lieu thereof "Director, $63,135 minimum to $79,975 maximum.".

(b) By inserting in paragraph 3 of subsection (c) "or any person appointed under section 4103 of this chapter, who is not eligible for special pay under section 4118 of this chapter" after "applies.".

(c) Paragraph 2 of subsection (d) is amended to read as follows: "(2) Level IV for the Deputy Chief Medical Director and the Associate Deputy Chief Medical Directors; and".

VETERANS ADMINISTRATION,
ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, March 9, 1987.

Hon. GEORGE BUSH,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to authorize modification of the structure of the Office of the Chief Medical Director, to clarify procedures for removal for cause of certain employees, to authorize the use of the Director Pay Grade within VA Central Office and for related purposes" with the request that it be referred to the appropriate committee for prompt consideration and favorable action.

Current law, codified at section 4103 of title 38, United States Code, makes mandatory a rather rigid structure for the Office of the Chief Medical Director (CMD) in the VA Department of Medicine and Surgery. It expressly requires, for example, that the Office "shall consist of" certain executive positions, restricts eligibility for certain positions to physicians or dentists only, and limits to one the number of Associate Deputy Chief Medical Directors (ADCMD) that may be appointed. The rigidity precludes refinements in the Department that are needed to effectively meet current challenges posed by a changing veteran population, evolving medical knowledge and technology, and refinements in both health care planning and Congressionally enacted health care programs. Without changing existing law as to the appointment, qualifications, or responsibilities of the Chief Medical Director and the Deputy Chief Medical Director, this proposal would create a second Associate Deputy Chief Medical Director position and authorize appointment of qualified nonphysicians to ADCDM positions. The draft bill would also expressly enable the CMD, with approval of the Administrator, to establish or abolish positions at the "operational" executive medicine level in DM&S headquarters. These changes would give the CMD flexibility necessary for managing the Department.

In addition, the draft bill contains a number of refinements that would complement the basic authority to organize the Department. Typically, appointees to executive medicine positions give up either positions as Civil Service employees under title 5, United States Code, or positions as professionals under section 4104 of title 38. To protect these appointees in the event their positions become abolished under the authority conveyed in the draft bill, it guarantees restoration rights to the type of position they gave up. Of course, such restoration rights would not be guaranteed to those appointees who did not previously hold Federal positions.

The existing law does not prescribe any procedures for removing persons appointed under section 4103. The draft bill would establish in statute the rights of persons appointed under section 4103 by specifying that a peer review hearing procedure similar to that set forth in section 4110 applies to them.

The draft bill would also amend the section 4107 pay schedule to accommodate the changes proposed for section 4103 and would authorize use of the "Director grade" pay range for Central Office positions at levels comparable to Directors in the field, but having different responsibilities. Current law permits the use of this pay range only for Directors of field medical activities. Such authority would enable the CMD to recruit and retain the services of highly qualified administrators at a pay range that is commensurate with their managerial skills.

The draft bill would provide that persons appointed under title 38 to executive positions in the Department of Medicine and Surgery, who are not physicians or dentists, would be eligible for bonuses and rank awards under the Senior Executive Service system. At persent, only Directors of field medical activities appointed under 38 U.S.C. 4103(a)(8) are eligible for these awards.

Finally, in order to improve the attractiveness of the position of Associate Deputy Chief Medical Director, the draft bill would raise the base pay for that position from Executive Level V to the higher Executive Level IV rate, currently paid only to the Deputy Chief Medical Director. Justification for this higher pay level is readily found in the special leadership qualities and managerial expertise required of those who, as ADCMD's, are accountable for ensuring the effective functioning of one of the largest health care delivery systems in the United States.

Because the draft bill would authorize appointing nonphysicians to some positions now occupied by physicians receiving special pay, it is expected to bring about minor cost savings.

A detailed analysis of this proposal is enclosed.

The Office of Management and Budget has advised that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

SECTION-BY-SECTION ANALYSIS

Section 1 of the draft bill would amend section 4103 of title 38, United States Code. That section prescribes the structure of the Office of the Chief Medical Director in the Veterans Administration. Section 1 would make section 4103 less rigid in the number of executive positions it calls for, in the types of positions it mandates and in the qualifications it requires for certain positions.

Subsection (a) of section 1 of the draft bill would increase to two the number of authorized Associate Deputy Chief Medical Directors (ADCMDs) that may be appointed by the Administrator upon the recommendation of the Chief Medical Director (CMD). It continues current language stating that any ADCMD(s) shall be an assistant(s) to the CMD and the Deputy Chief Medical Director. As amended by subsection (a), section 4103 would no longer require that ADCMDs be qualified doctors of medicine and would thus allow the Agency to consider selecting highly-qualified individuals with health care and hospital management backgrounds and skills.

Subsections (b) and (c) of section 1 of the draft bill would add flexibility to the provisions in section 4103 that address second tier management positions, i.e., the Assistant Chief Medical Directors (ACMDs) and Medical Directors. Subsection (b) of section 1 eliminates paragraphs (4) through (9) of subsection (a) of the current section 4103. Those paragraphs authorize up to eight ACMDs, an unspecified number of Medical Directors, require the existence in the Office of the Chief Medical Director, of Directors of Nursing, Pharmacy, Dietetics, Podiatry, and Optometry Services (a minimum of five) and also authorize facility director appointments. Substituting for these paragraphs in the current law, subsection (c) of section 1 of the draft bill retains discretion in the number of Medical Directors, but would reduce to seven the maximum number of authorized ACMDs. These changes would be codified at 38 U.S.C. § 4103(b) (1) and (2). Subsection (c) would enhance flexibility by eliminating specific requirements that Directors of Nursing, Pharmacy, Dietetics, Podiatry, and Optometry Services exist in the Office of the Chief Medical Director. Subsection (c) would recast the authority for appointing Directors of such services by eliminating the limit on their number and enable certain qualified persons who are neither physicians nor dentists, whose duties and responsibilities are of sufficient import, to be appointed in status of a Director, or, in the case of a Director of Nursing Service, in the status of a Medical Director. It retains unchanged the language, which would appear at paragraph (4) of subsection (b) of the amended section 4103, authorizing the appointment of facility directors. Paragraph (5) of subsection (b) of the amended section 4103 would affirm the historic prerogative of the CMD to appoint persons to such positions that the CMD considers necessary to meet the needs of the Department.

Subsection (d) of section 1 of the draft bill would redesignate subsection (c) of section 4103, dealing with the designation of a Director of the Chaplain Service, as subsection (f). There is no substantive effect on the current authority of the Administrator to designate a member of the VA Chaplain Service as Director, Chaplain Service, for a period of two years. If not redesignated, the appointee is to revert to the position, grade and status held immediately prior to being designated Director.

Subsection (e) of section 1 of the draft bill would add necessary authority to organize the Office of the Chief Medical Director at the "operational" level. It would give the CMD, with the approval of the Administrator, authority to establish, consolidate, eliminate, redistribute, modify, or abolish such subordinate positions as are necessary to accomplish the mission of DM&S. It also would add a statutory mandate that section 4103 appointees receive a due process hearing procedure for removal for cause similar to the peer review board procedures set forth in section 4110 for section 4104 appointees. In addition, subsection (e) would provide alternate placement to those whose positions are abolished by any reorganization. However, the protection afforded to these appointees by such restoration rights are guaranteed solely to those who, immediately prior to accepting these executive positions, occupied a Federal position.

Section 2 of the draft bill would amend the pay statute, section 4107 of title 38, to bring it into conformity with the changes that section 1 would make in section 4103. Subsection (a) of section 2 of the draft bill would revise the pay schedule for section 4103 appointees by eliminating the six ranges now separately listed for each specifically named Service Director and substituting a single pay range for appointees to Director positions. This measure, which would establish a Director pay range for VA Central Office, is consistent with the change to section 4103 effected by subsection (e) of section 1 of the draft bill, which makes discretionary the existence of any particular professional service.

Under existing law, the use of this grade is limited only to Directors of field medical activities. The new "Director grade" (starting at $63,135) in the section 4103 schedule will be between the "Executive grade" (starting at $58,297) in the physician and dentist schedule and the higher "Medical Director grade" (starting at $73,958) in the section 4103 schedule. Its current absence from the section 4103 schedule in section 4107 precludes its use for Central Office appointees. Subsection (a) of section 2 of the draft bill would correct this and add the Director grade to that section 4103 schedule. It is expected that the Director grade would be used for appointees having levels of responsibility similar to those who currently serve as Directors of such services as Pharmacy, Dietetics, Podiatry, etc., but who do not necessarily serve as directors of services. As noted above and as under current law, the Director of Nursing Service would continue to be paid at the Medical Director grade. To avoid confusion and to reflect the accurate pay rates, the schedules in the "Ramseyer" comparison with existing law have been updated to include the current pay rates resulting from Executive Order 12578 of December 31, 1986.

Subsection (b) of section 2 of the draft bill would make non-medical executive appointees to nonfacility Director positions in VA Central Office eligible for Senior Executive Service bonuses and rank awards. Currently, only facility directors are eligible for such benefits. This change would ensure that a career member of the Senior Executive Service will not be precluded from eligibility by accepting an appointment to a position under title 38.

Subsection (c) of Section 2 of the draft bill would raise the base pay for ADCMDs from Executive Level V to Executive Level IV.

Raising ADCMD pay to Executive Level IV would make it equal to that of the Deputy Chief Medical Director. While it is unusual to place the salary of a subordinate on a par with that of his/her superior, this proposal merely reflects the unique managerial roles expected of the ADCMDs. The ADCMDs are charged with the responsibility of administering a vast and complex medical care system to ensure that it meets its obligations as to those who seek, and place their trust in, the VA's medical care program. To shoulder the constant burdens of this immense organization and to effectively implement Department policies and goals requires extraordinary administrative talents and technical expertise. The increase in rate of pay is in recognition of the singular leadership qualities and resourcefulness demanded of an ADCMD.

Because the proposal would authorize appointing nonphysicians to some positions now occupied by physicians receiving special pay, we expect that the enactment of this draft bill to bring about minor cost savings.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 1126. A bill to designate the border station at 9931 Guide Meridian, Lynden, WA, as the "Kenneth G. Ward Border Station"; to the Committee on Finance.

KENNETH G. WARD BORDER STATION

● Mr. EVANS. Mr. President, I rise today to introduce legislation to designate the U.S. Customs Service border station at Lynden, WA, as the "Kenneth Ward Building."

Mr. President, Kenneth Ward was on duty as the customs inspector at the Port of Lynden on May 24, 1979. During his shift, a man and woman arrived at the station and were referred to a secondary inspection. After reviewing information provided by the Treasury Enforcement Communications System, Inspector Ward determined that a more thorough inspection of the man and his vehicle was warranted.

After Inspector Ward requested that the man empty his pockets, the individual pulled out a handgun and shot Inspector Ward in the chest and back, killing him.

Inspector Ward was the 31st customs officer in the history of the U.S. Customs Service to be killed in the line of duty. At the request of the Customs Service, I am pleased to join with Senator ADAMS in introducing legislation which would name the border station at Lynden in Inspector Ward's honor.

Identical legislation has been introduced in the House, and I am hopeful that we can act quickly on this legislation so that the Customs Service may commemorate the anniversary of Inspector Ward's death with a dedication service.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The border station at 9931 Guide Meridian, Lynden, Washington, shall be known and designated as the "Kenneth G. Ward Border Station".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the border station referred to in section 1 shall be deemed to be a reference to the "Kenneth G. Ward Border Station".●

By Mr. TRIBLE:

S.J. Res. 121. Joint resolution designating August 11, 1987, as "National Neighborhood Crime Watch Day"; to the Committee on the Judiciary.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

Mr. TRIBLE. Mr. President, I am introducing legislation today which commends the efforts of the Nation's neighborhood crime watch groups and declares August 11, 1987, as "National Neighborhood Crime Watch Day."

During the past several years, the ranks of the Nation's crime watch organizations have grown tremendously. Citizens throughout America have joined together in voluntary efforts to prevent criminal activity in their communities.

One grass-roots organization—the National Association of Town Watch—has more than 1,500 chapters from 32 different States, and was a winner of the 1986 National Crime Prevention Award. The National Sheriffs Association is actively involved in neighborhood watch efforts. And in my own State of Virginia, more than 300,000 households participate in some form of neighborhood watch program.

On August 11 of this year, those groups will take part in a "National Night Out" being sponsored, in part, by the National Association of Town Watch. In large cities and small towns across America, participating neigborhood watch members will spend the hour between 8 and 9 p.m. patrolling their neighborhoods to help deter criminal activities. As in years past, a number of jurisdictions in Virginia are expected to take part.

This annual event is designed to increase cooperation between community-based watch programs and their local law enforcement authorities. It is also aimed at generating local support for the crime watch groups and increasing their membership.

Last year, more than 16 million people in 4,700 different communities took part in the National Night Out—the fourth of its kind. I am hopeful that an even larger turnout will occur in Virginia and across the Nation on August 11.

The joint resolution I am introducing today commends the efforts of America's neighborhood watch groups. It also declares August 11, 1987, as National Neighborhood Crime Watch Day, to coincide with the National Night Out being held on that same day. This measure is virtually identical to resolutions of mine that have been signed into law during the past 2 years.

Mr. President, I am greatly encouraged by the growing participation in neighborhood crime watch programs. I believe it reflects a growing unwillingness on the part of law-abiding Americans to simply give in to the threat of crime. It is also a valuable example of the voluntary, community-based efforts that contribute so much to our national well being.

I urge my colleagues to join Senator SPECTER and me in sponsoring this resolution, and I ask unanimous consent that a copy be printed in the RECORD at this time.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 121

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 11, 1987, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 11, 1987, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. SPECTER. Mr. President, today I join Senator TRIBLE in introducing a resolution to establish August 11, 1987, as the fourth annual "National Neighborhood Crime Watch Day."

An integral part of this important day is "National Night Out," sponsored by the National Association of Town Watch [NATW], based in Wynnewood, PA. In response to growing concern over the Nation's crime rate, organizations such as NATW, have expanded their efforts to increase the public's role in combatting crime.

Last year, NATW sponsored its third annual "National Night Out" crime prevention project on August 12, 1986. The participants included 16.5 million citizens in 4,720 communities and 49 States nationwide. Citizen participation is especially significant in my own State of Pennsylvania. Last year, NATW recognized the city of Pittsburgh as the top "National Night Out" City of the Year.

"National Night Out" is a nationwide attempt to fight crime through a joint police and community effort. Coinciding with National Neighborhood Crime Watch Day, National Night Out is an expression of the citizens' intent to combat crime through the participation of neighborhood watch members in patrolling their own neighborhoods or observing this patrol from their lawns or lighted porches from 8 to 9 p.m.

I hold NATW in high regard for the importance of its crime prevention work in Pennsylvania and throughout the Nation. NATW is a unique organization, serving as a liaison among thousands of communities involved in crime prevention programs and representing the entire spectrum of programs concerned with the serious problem of crime in our neighborhoods. As such, it helps coordinate the anticrime efforts of, and provide information and assistance to, the many communities involved in organized crime prevention programs.

Under the leadership of Mr. Matt Peskin, project coordinator, NATW received the prestigious 1986 National Crime Prevention Award, presented by the National Crime Prevention Council, the Crime Prevention Coalition, and the U.S. Department of Justice, for the association's extraordinary efforts in fighting crime.

In association with other anticrime organizations, NATW works to reduce the neighborhood crime rate and to enhance the police-community relationship. Nearly obsolete in the 1960's and 1970's, the notion of the police and the community cooperating with each other is now being institutionalized. No longer are people as afraid to call the police, and law enforcement organizations now recognize the citizens' role in fighting crime.

As a former district attorney and current member of the Senate Judiciary Committee and cochairman of the Congressional Crime Caucus, I have actively pursued initiatives to fight street crime. I, therefore, commend the efforts of NATW and all the participants in National Night Out.

Mr. President, I urge my colleagues to join me in cosponsoring this important resolution to recognize the active involvement of organizations such as NATW in the ongoing national fight against crime.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 12, a bill to amend title 38, United States Code, to remove the expiration date for eligibility for the educational assistance programs for veterans of the All-Volunteer Force; and for other purposes.

S. 104

At the request of Mr. INOUYE, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 104, a bill to recognize the organization known as the National Academies of Practice.

S. 143

At the request of Mr. INOUYE, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 143, a bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer.

S. 328

At the request of Mr. SASSER, the names of the Senator from California [Mr. CRANSTON] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 407

At the request of Mr. GARN, the names of the Senator from Florida [Mr. CHILES], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 407, a bill to grant a Federal charter to the Challenger Center, and for other purposes.

S. 541

At the request of Mr. PRYOR, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Georgia [Mr. NUNN], the Senator from Louisiana [Mr. BREAUX], the Senator from North Carolina [Mr. SANFORD], the Senator from Missouri [Mr. DANFORTH], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 541, a bill to amend title 39, United States Code, to extend to certain officers and employees of the U.S. Postal Service the same procedur-

al and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive services.

S. 552

At the request of Mr. EVANS, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 552, a bill to improve the efficiency of the Federal classification system and to promote equitable pay practices within the Federal Government, and for other purposes.

S. 598

At the request of Mr. MITCHELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 598, a bill to amend title XIX of the Social Security Act to protect the welfare of spouses of institutionalized individuals under the Medicaid Program.

S. 604

At the request of Mr. PRYOR, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. HEFLIN], the Senator from Alabama [Mr. SHELBY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 747

At the request of Mr. BYRD, his name was added as a cosponsor of S. 747, a bill to establish a motor carrier administration in the Department of Transportation, and for other purposes.

S. 860

At the request of Mr. BOREN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. HATCH], the Senator from Arkansas [Mr. PRYOR], the Senator from North Carolina [Mr. SANFORD], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 860, a bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

S. 861

At the request of Mr. ADAMS, the names of the Senator from Florida [Mr. CHILES], the Senator from Illinois [Mr. SIMON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 861, a bill to require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers.

S. 904

At the request of Mr. GRASSLEY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 904, a bill to amend the Job Training Partnership Act to establish a Literacy Training Program to serve individuals most in need of literacy skills who are not presently being served.

S. 907

At the request of Mr. HOLLINGS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 907, a bill to further United States technological leadership by providing for support by the Department of Commerce of cooperative centers for the transfer of research in manufacturing, and for other purposes.

S. 943

At the request of Mr. ADAMS, the names of the Senator from Connecticut [Mr. WEICKER] and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 943, a bill to amend the Federal Aviation Act of 1958 to ensure the fair treatment of airline employees in airline mergers and similar transactions.

S. 946

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 946, a bill to amend title 18 of the United States Code to provide for the imposition of the death penalty in certain espionage cases.

S. 947

At the request of Mr. ROTH, the name of the Senator from Alaksa [Mr. STEVENS] was added as a cosponsor of S. 947, a bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes.

S. 948

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 948, a bill to condition the occupation of the new Soviet Embassy in Washington, DC, on improved United States security arrangements for the Embassy in Moscow.

S. 949

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 949, a bill to prohibit the availability of funds for the United States' proportionate share of the United Nations' Office of Research and Information Collection.

S. 993

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 993, a bill to require the Department of State offices involved in overseas construction projects.

S. 994

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 994, a bill to improve security at facilities of the United States Government located in foreign countries.

S. 995

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 995, a bill to assure the availability of funds for additional construction activity in certain Communist countries.

S. 996

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 996, a bill to increase penalties for espionage, to enhance security at United States missions abroad, and for other purposes.

S. 997

At the request of Mr. PELL, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 997, a bill to require the Director of the National Institute on Aging to provide for the conduct of clinical trials on the efficacy of the use of tetrahydroaminoacidine in the treatment of Alzheimer's disease.

S. 1002

At the request of Mr. CRANSTON, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1002, a bill to amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the U.S. nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes.

S. 1007

At the request of Mr. HATFIELD, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1007, a bill to enable States located on a river or acquifer affected by the siting of a repository for high-level radioactive waste or spent nuclear fuel to participate effectively in the site selection, review, and approval process for such repository, and for other purposes.

S. 1070

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1070, a bill to increase the amount authorized to be allotted under title XX of the Social Security Act.

S. 1080

At the request of Mr. BOSCHWITZ, the name of the Senator from Nebraska [Mr. KARNES] was added as a cosponsor of S. 1080, a bill to amend the Automobile Information Disclosure Act to provide information as to whether or not certain motor vehicles are capable of using gasohol.

SENATE JOINT RESOLUTION 14

At the request of Mr. HELMS, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 14, a joint resolution to designate the third week of June of each year as "National Dairy Goat Awareness Week."

SENATE JOINT RESOLUTION 53

At the request of Mr. CRANSTON, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 53, a joint resolution to designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week."

SENATE JOINT RESOLUTION 82

At the request of Mr. GLENN, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Indiana [Mr. QUAYLE], the Senator from South Carolina [Mr. THURMOND], the Senator from Michigan [Mr. LEVIN], the Senator from Michigan [Mr. RIEGLE], the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. PELL], the Senator from Arizona [Mr. DECONCINI], the Senator from North Dakota [Mr. BURDICK], the Senator from Utah [Mr. GARN], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. DIXON], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Florida [Mr. CHILES], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of Senate Joint Resolution 82, a bill to authorize the President to issue a proclamation calling upon the people of the United States to observe the bicentennial of the Northwest Ordinance of 1787.

SENATE JOINT RESOLUTION 86

At the request of Mr. DECONCINI, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of Senate Joint Resolution 86, a joint resolution to designate October 28, 1987, as "National Immigrants Day."

SENATE JOINT RESOLUTION 87

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Florida [Mr. CHILES], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 87, a joint resolution to designate November 17, 1987, as "National Community Education Day."

SENATE JOINT RESOLUTION 118

At the request of Mr. HOLLINGS, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Washington [Mr. ADAMS], the Senator from Mississippi [Mr. STENNIS], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 118, a joint resolution to designate the week of May 10, 1987, through May 16, 1987, as "Senior Center Week."

SENATE JOINT RESOLUTION 120

At the request of Mr. SYMMS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 120, a joint resolution to void certain agreements relating to the site of the Soviet Union's embassy in the District of Columbia.

SENATE RESOLUTION 201

At the request of Mr. MOYNIHAN, the names of the Senator from Utah [Mr. HATCH], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Resolution 201, a resolution to express the sense of the Senate in support of Solidarity Sunday.

SENATE CONCURRENT RESOLUTION 56—RELATING TO PHYSICIAN PAYMENT

Mr. DURENBERGER (for himself, Mr. DOLE, Mr. DANFORTH, Mr. MCCAIN, Mr. WALLOP, Mr. WILSON, Mr. MOYNIHAN, and Mr. HEINZ) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 56

Whereas the President has proposed, in his budget for fiscal year 1988, that Medicare payments to physicians whose practices are based in hospitals—radiologists, anesthesiologists, and pathologists (RAPS)—be incorporated in the set price for each hospital procedure;

Whereas there is inadequate evidence at this time that a medicare reimbursement system for physicians' services based on DRGs would produce significant budget savings without possible compromise of quality of care and access to care, particularly in rural areas;

Whereas implementing such a reimbursement system, even if only for hospital-based physicians, might necessitate incorporating mandatory acceptance of assignment of Medicare benefits, which could result in the inequitable distribution of services and compensation. And which policy has been rejected by Congress.

Whereas the Congress has established the Physician Payment Review Commission to study, review, and report its recommendations regarding modifications in reimbursement for physicians' services under the Medicare Program; and

Whereas, the Congress has specifically required the Secretary of Health and Human Services, taking into account a thorough examination of input costs for physicians' services, to report by July 1, 1989, concerning development of a relative value scale for implementation in 1990: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) any significant change in the medicare payment methodology for physicians' services (including those incorporating payment for hospital-based physicians as part of a fixed payment for inpatient hospital services) should not be undertaken without receipt of the results of the reports required under legislation enacted in the Ninety-ninth Congress and a detailed analysis of the long-range impact of any such change on quality of care and access to care for Medicare beneficiaries, and Congress has considered the advantages and disadvantages of possible solutions. This does not preclude Congress from making modest changes recommended in the interim by the Commission, based on interim reports and Congressional study.

● Mr. DURENBERGER. Mr. President, the administration has proposed, in the budget for fiscal year 1988, that Medicare payments to physicians whose practices are based in hospitals—radiologists, anesthesiologists, and pathologists [RAP's]—be incorporated in the set price for each hospital procedure.

I am very concerned that such a proposal is premature and could waste valuable time and scarce resources in implementing a payment system that may not be the way Congress wants to proceed when studies now under way are concluded and the congressionally mandated Physician Payment Commission makes its report.

I have substantial concerns that a hurriedly designed Medicare reimbursement system for physician services based on DRG's may diminish both access to care, particularly in rural areas, and quality of care to Medicare beneficiaries.

Implementing such a reimbursement system, even if only for hospital-based physicians, might necessitate incorporating mandatory acceptance of assignment of Medicare benefits, which could result in the inequitable distribution of services and compensation. So far that policy has been rejected by Congress.

Congress has established an impressive Physician Payment Review Commission to study, review, and report recommendations to Congress regarding modifications in reimbursement for physicians' services, and to report by July 1, 1989, concerning development of a relative value scale for implementation in 1990. The Commission has already issued its first report and the Commissioners have started a number of studies which will inform Congress about the nature of the problem and possible solutions.

I believe that any drastic change in the Medicare payment methodology for physicians' services—including those incorporating payment for hospital-based physicians as part of a fixed payment for inpatient hospital services—should not be undertaken without receipt of the results of the reports required under legislation enacted in the 99th Congress and a detailed analysis of the long-range impact of any such change on quality of care and access to care for Medicare beneficiaries. I have, therefore, offered this resolution with my distinguished colleagues to ensure that there is not premature action by the administration.●

● Mr. MCCAIN. Mr. President, I join my distinguished colleague from Minnesota, Senator DURENBERGER, as a cosponsor of this physician payment resolution.

I am very concerned, Mr. President, about the administration's proposal to wrap hospital-based physicians into the prospective payment system. While I agree with the administration's premise that the physician payment system is in need of reform, I believe that we should not take action—such as that proposed by the administration—until the studies requested by Congress have been completed.

In seeking both private and public sector input into the reform of the physician payment system, Congress established the Physician Payment Review Commission in the Consolidated Omnibus Reconciliation Act of 1985. This Commission, which is comprised of representatives from both the private and public sectors—beneficiaries, physicians, and other interested parties, collectively represents a broad range of experience and perspectives on issues concerning the payment of physicians. The Commission provides an organized structure for them to share a common information base and to render collective judgment.

Mr. President, establishing this Commission—thereby involving all concerned in the development of viable proposals—was a very responsible move on the part of Congress. To take action prior to receiving the recommendations of this group would—in my mind—be irresponsible.

We charged the Commission with the task of reporting to us annually the changes they recommend in the physician payment system. These reports are to address adjustments to the reasonable charge levels for physicians' services; modifications in the methodology for determining rates of payment; and changes in the methods for paying physicians for services under the Medicare Program.

On March 1, the Commission released its first report. In this report, the Commission indicated that it plans to develop a fee schedule, but that it will be some time before the plan is ready to be presented to Congress. In the interim, however, the Commission has made several recommendations for adjustments that might be made to the existing physician payment system. For this statement, the details of the Commission's interim recommendations are not important. What is important, however, is that we be reminded of the fact that we, just less than 2 years ago created the Physician Payment Review Commission.

I think it suffices to say that taking action, such as that proposed by the administration, prior to receiving the recommendations of the very Commission we established, sets a very unwise precedent. It is extremely important that we look at all angles of these important issues and that we involve all sectors of society in the debates. In fact, that is the very purpose for our establishing the Commission in the first place.

Mr. President, I would like to again stress that the physician payment system is in need of reform, but believe that we must take the time to involve—in this process—the very Commission that we established to assist us in this task. While it is going to be a couple of years before we receive the final report regarding recommendations for complete reform, we ought to remember that we charged the Commission with the task of making interim recommendations. These interim recommendations, Mr. President, ought to be seriously considered by Congress and acted upon accordingly.

Mr. President, we must proceed with caution. But, nevertheless, we must proceed. I urge my colleagues to join myself, Senators DURENBERGER, DOLE, DANFORTH, WALLOP, and others in supporting this resolution.●

SENATE RESOLUTION 204—REGARDING FUNDS PROVIDED BY THE ANTI-DRUG ABUSE ACT OF 1986

Mr. KENNEDY (for himself, Mr. BURDICK, Mr. PELL, Mr. CRANSTON, Mr. BENTSEN, Mr. WEICKER, Mr. CHILES, Mr. JOHNSTON, Mr. BUMPERS, Mr. LEAHY, Mr. METZENBAUM, Mr. CHAFEE, Mr. RIEGLE, Mr. SARBANES, Mr.MOYNIHAN, Mr. LEVIN, Mr. MITCHELL, Mr. DODD, Mr. D'AMATO, Mr. WILSON, Mr. LAUTENBERG, Mr. SIMON, Mr. GORE, Mr. ROCKEFELLER, Mr. ADAMS, Ms. MIKULSKI, Mr. FOWLER, and Mr. GRAHAM) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 204

Whereas treatment programs for alcohol and drug abuse in many areas of the United States are overburdened, have long waiting lists for treatment services, and turning away individuals in need of such services;

Whereas drug abuse education and prevention are essential to stop the widespread use of drugs and the abuse of alcohol among the Nation's students;

Whereas Congress enacted the Anti-Drug Abuse Act of 1986 (Public Law 99-570) (hereafter referred to in this resolution as the "Act"), in part, to assist States and communities in their efforts to immediately respond to those demands for treatment services and education and prevention programs;

Whereas Congress, in subtitle A of title IV of the Act, authorized a supplemental, emergency treatment grant program for alcohol and drug abuse services;

Whereas the Act requires that grant allocations designated for fiscal year 1987 be made available to the States within 4 months of the date of enactment of the Act;

Whereas the Department of Health and Human Services is informing States that the funds available for fiscal year 1987 to carry out such subtitle were appropriated for 2 years and should be so spent;

Whereas this directive contravenes Congressional intent that these funds be rapidly allocated in fiscal year 1987 for the expansion of treatment services;

Whereas the impact of this directive will be an effective reduction of the fiscal year 1987 appropriation by 50 percent and a consequent delay in the provision of services to approximately 110,000 drug and alcohol dependent individuals;

Whereas this directive will further seriously jeopardize the success of the supplemental, emergency treatment grant programs by calling into question the ongoing commitment of the Congress to this important endeavor;

Whereas Congress intends to renew its support for the supplemental, emergency treatment initiatives this year, during renewal of the Alcohol, Drug Abuse and Mental Health Services Block Grant program which expires at the end of fiscal year 1987;

Whereas in conjunction with the supplemental, emergency treatment initiatives, Congress enacted the Drug Free Schools and Communities Act of 1986 (subtitle B of title IV of the Act) as an essential part of its overall strategy to reduce the demand for and use of drugs;

Whereas the Department of Education has requested a fiscal year 1988 funding level for drug abuse education and prevention programs that is 50 percent less than the $200,000,000 Congress appropriated for such programs in fiscal year 1987; and

Whereas the consequent reduction in such education and prevention programs violates the intent of Congress to promote prompt action by our Nation's schools, families, and communities to achieve a drug-free society: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) all of the funds appropriated to carry out the Anti-Drug Abuse Act of 1986 (Public Law 99-570) with respect to emergency treatment of alcohol abuse and drug abuse, be made immediately available to the States for initiation and expansion of treatment services;

(2) States should not be required to use these funds for program costs in fiscal year 1988; and

(3) the proposed $100,000,000 cut by the Department of Education for fiscal year 1988 education and prevention programs under the Drug Free Schools and Communities Act of 1986 (subtitle B of title IV of the Act) be rejected by the Congress.

● Mr. KENNEDY. Mr. President, I submit today a resolution reaffirming the Senate's commitment to the promises we made to the Nation in the Anti-Drug Abuse Act of 1986 and repudiating recent actions by the administration related to the funding of that act.

Mr. President, with the enactment of the Anti-Drug Abuse Act of 1986, the Congress and the administration demonstrated to the Nation our commitment to stemming the flood tide of substance abuse. For our young people, we promised protection from the calamity of addiction by providing education and prevention programs. For those in need of treatment or rehabilitation, we promised new opportunities for care and counseling to help them escape the scourge of addiction.

Recent actions by the administration have called into question the sincerity of our promises. The Department of Education's fiscal year 1988 budget request for drug abuse education and prevention is 50 percent less than the fiscal year 1987 appropriated level. The Department of Health and Human Services proposes to spend the fiscal year 1987 appropriation for emergency treatment programs over 2 years, effectively cutting the program to half the level Congress intended.

Both of these actions are inconsistent with the commitment made by the Congress and the administration. To reassure the Nation of our commitment to the goal of a drug-free generation and a drug-free society, I and my cosponsors introduce this resolution calling for full implementation in fiscal year 1987 of the program Congress initiated and continuation of these efforts in fiscal year 1988.●

SENATE RESOLUTION 205—CALLING FOR THE RELEASE OF POLITICAL PRISONERS BY THE GOVERNMENT OF VIETNAM

Mr. BYRD (for Mr. KENNEDY, for himself, Mr. DOLE, Mr. BYRD, Mr. PELL, Mr. HELMS, Mr. DURENBERGER, and Mr. HATFIELD) submitted the following resolution; which was considered and agreed to:

S. RES. 205

Whereas twelve years have passed since the end of the Vietnam war, yet thousands of Vietnamese remain held as political prisoners and many thousand more divided from their families in the United States and other countries;

Whereas the Government of the Socialist Republic of Vietnam has a responsibility to observe international standards of human rights;

Whereas the Government of the Socialist Republic of Vietnam has committed itself to releasing political prisoners to be resettled abroad; and

Whereas the Government of the Socialist Republic of Vietnam has signed an agreement with the United Nations High Commissioner for Refugees to assist in the reunification of families: Now, therefore, be it

Resolved by the Senate, That the Government of the Socialist Republic of Vietnam should immediately release all political prisoners held as a result of their previous association with the Government of South Vietnam prior to 1975;

That the Government of the Socialist Republic of Vietnam should fulfill its commitment to negotiate their humane resettlement abroad or to rejoin family members outside of Vietnam; and

That the Government of the Socialist Republic of Vietnam should immediately resume processing of family reunification cases under the United Nations High Commissioner for Refugees Orderly Departure Program.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, and the Subcommittee on Strategic Forces and Nuclear Deterrence, Committee on Armed Services, will hold a joint hearing on the "Need for and Operation of a Strategic Defense Initiative Institute," on Wednesday, May 6, at 2 p.m. in room 342 of the Dirksen Senate Office Building.

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Tuesday, May 12, 1987, at 10 a.m., to present and examine the results of a survey conducted by the Committee of Graduates of the Small Business Administration's Minority Business Development Program under section 8(a) of the Small Business Act. The hearing will be held in room 428A of the Russell Building. For further information, please call John Ball, staff director of the committee at 224-5175, or Erline Patrick at 224-2016.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place Thursday, May 21, 1987, 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the following two measures currently pending before the subcommittee:

H.R. 626. A bill to provide for the conveyance of certain public lands in Alabama; and

H.R. 799. A bill to designate a segment of the Kings River in California as a wild and scenic river.

Those wishing information about testifying at the hearing or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510 on or before May 18. For further information, please contact Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on May 1, beginning at 10:30 a.m., to hold a hearing on proposed Federal triangle legislation—to construct a Federal office building, and trade and cultural center on Pennsylvania Avenue.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, May 1, 1987, to mark up the fiscal years 1988 and 1989 authorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 1, 1987, at 9:30 a.m. to mark up S. 490, the Omnibus Trade Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, May 1, 1987, at 11:30 a.m. to vote on the nomination of William H. Webster to be Director of Central Intelligence.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REFLECTIONS ON THE 200TH BIRTHDAY OF THE U.S. CONSTITUTION

● Mr. GLENN. Mr. President, we, the people, are celebrating the 200th birthday of the U.S. Constitution this year. This occasion provides us with a valuable opportunity to reflect on the extraordinary success our Nation has enjoyed over the past two centuries. It also gives us an opportunity to renew our commitment to the unique constitutional system which has allowed us to achieve that success.

As Americans, we enjoy significant rights that people in many other countries only dream about. Some of these are the right to choose our own leaders; the right to criticize people and ideas with which we disagree; the right to select our own occupations; the right to observe the religion of our choice; the right to travel around the country, or even to leave it entirely; and the right to keep our diaries and journals private without fear that the Government will arbitrarily confiscate and read them.

Most of us have become so accustomed to these rights that we sometimes overlook how revolutionary these ideas were when they were first

presented in a single document two centuries ago. While most constitutions before 1787 were designed simply to establish the power and privilege of the rulers of a nation, ours vested political power in the people. Thomas Jefferson summarized the approach in saying:

I know no safe depository of the ultimate powers of the society, but the people themselves.

Of all the political documents that have been produced, the U.S. Constitution is the most successful in the history of governments. One of its most remarkable features is that it resembles a skeleton rather than a shell in providing a strong but flexible political framework. It is firm in laying out a structure of government and a set of enduring values, yet like a skeleton it is flexible in its adaptability to changing circumstance. It has repeatedly brought us through turbulent times—through Civil War and the slavery issue, through the two World Wars, through the Depression of the 1930's, through the initial civil rights struggle, and through the tremendous geographic and economic expansion that we have experienced throughout our history.

Both in crises and in day-to-day governance, the Constitution has guided our Nation's leaders as they have sought solutions to pressing problems. Some struggles, such as that for civil rights, took a long time to begin and will take even longer to complete, but the Constitution 200 years ago established a process that enables us to manage periods of profound change more effectively than any other political system in history.

Sometimes, however, I worry that perhaps our Constitution has been almost too successful. By that I mean that we often seem complacent about our system of government.

Evidence of this complacency is all around us. Take voting, for example. Choosing our own leaders is the most fundamental responsibility of self-governance. Yet in the 1984 Presidential election only 53 percent of eligible voters turned out at the polls; voting totals were even lower in last year's congressional elections, when only 33 percent of the voting age population cast ballots.

Recent studies also reveal a disturbing lack of knowledge and understanding by our citizens of how our Government works. To cite some startling examples: According to one survey barely a majority of the American people know that the underlying purpose in drafting the Constitution was to create a Federal Government and to define its powers; 60 percent of our citizenry thinks that the President can appoint a Supreme Court Justice without the consent of the Senate; and nearly half of those Americans polled believe that the Constitution contains the Marxist declaration "from each according to his ability, to each according to his needs."

If we want our Nation's system of government to remain truly democratic, we must better educate our citizenry in our political system; we must better involve people in the process of citizenship; and we must better train those Americans who will lead our Nation in the next and in succeeding generations. I fully agree with former Chief Justice Warren Burger, who said recently that the major thrust of the Constitution's bicentennial celebration should be to provide "a history and civics lesson to us all."

So let us take a few moments to reflect on how remarkably well our Constitution has provided us with a free and secure society for 200 years. But let us not stop there. Let each of us use this occasion to reaffirm our commitment to civic responsibility and to rededicate ourselves to the principles of our Constitution. Only then can we be sure that future generations will live in an American society that is still strong, still independent, and still free.●

S. 268, THE FEDERAL EMPLOYEE ADOPTION BENEFITS ACT OF 1987 AND S. 269, THE FEDERAL ADOPTION BENEFITS ACT OF 1987

● Mr. CHAFEE. Mr. President, I am pleased to join Senator HUMPHREY in cosponsoring S. 268, the Federal Employee Adoption Benefits Act of 1987 and S. 269, the Federal Adoption Benefits Act of 1987. It is with these measures that we hope to encourage adoption through the use of subsidies.

These are times when legislators and commentators alike agree that the family in American society needs all the help it can get. The future of our country is only as bright as the futures of our children. When a family wishes to adopt a child in need of love, nurturing, and stability, it is something to be encouraged. Financial barriers should not be allowed to interfere with such commendable intentions; such desperately needed action.

When a family is created in a biological fashion and the parents are employees of the Federal Government, their expenses are covered through the employee benefits plans that provide for prenatal and delivery care. When a family is created through adoption, no similar benefits are available. The average fee for an adoption from a nonprofit adoption agency in 1985 was $6,000. It is time for the Federal Government to bring its employee benefits plans up to date.

The legislation that I have joined Senator HUMPHREY in sponsoring in the Senate seeks to amend this inequity—and bring the strength of families to more children in need of them.

Our bills would provide reimbursements of up to $2,000 for expenses incurred in the adoption of a child for civil service employees and members of the Armed Forces. This money can be applied to adoption expenses such as agency fees, placement fees, legal fees, medical expenses, foster care charges, and transportation costs.

Rhode Island has over 4,000 military personnel living within its borders. An additional 9,000 Rhode Islanders are Federal Civil Service employees. Thus, over 13,000 people in Rhode Island could benefit from this legislation.

It is through our children that we can eventually solve the problems of the world, and achieve what we struggle for on a day-to-day basis: peace, fulfillment, meaning. It only makes sense for us to ensure that our children are well cared for, in spite of the obstacles our society may present.

It is obvious by the variety of sponsors of this bill that adoption is an issue that transcends politics and ideology. Families are our Nation's strength. We need to do more to keep them strong.●

REMEMBRANCE OF FATHER JERZY POPIELUSZKO

● Mr. BRADLEY. Mr. President, tragically, history largely forgets the innocent who have suffered and died. As Nobel Peace Laureate Elie Wiesel, a survivor of the concentration camp at Auschwitz once said, "Memory is our shield, our only shield, to protect mankind against a repetition of the slaughter." I rise today to remember Father Jerzy Popieluszko, the Polish priest whose efforts to secure basic freedoms for Poles caused him to die at the hands of the state security police in October 1984. His courage will be inspirational for years to come.

The death of Father Popieluszko raised important questions about the relationship between the church and the state and unfortunately hindered relations between these two strong entities in Poland. However, the death of Father Popieluszko was not in vain and forced the government to pay closer attention to the unrest in many areas of Polish society. The trial itself was a startling break with the past. The severe sentencing meted out to the members of the secret police who were involved in the murder of Father Popieluszko was the first victory in a long battle to win freedom for the Polish people.

Father Popieluszko demonstrated a rare commitment to serving his fellow man. He deeply valued individual rights, freedom, and justice and spoke out for his beliefs. Finally, he sacrificed his own life for his countrymen and all who live under totalitarian governments throughout the world. We are fortunate to have people in this

world, such as Father Popieluszko, who have the courage to stand up for their convictions in the face of strong opposition and grave personal danger. His life was admirable and so was the courage he showed in the face of his imminent death.

On his final night, during the last hours of his spirited life, he managed to break free from his captors and shout "Save me! Save me! Spare my life you people!" He died as he lived, not holding back his words despite the possibility that they might result in great personal harm or even death, as they eventually did.

Father Popieluszko was a martyr. He won a large following for his unselfish outspoken support of Solidarity. Today this movement lives because Father Popieluszko and others have sacrificed their lives for it. I join my colleagues in praising Father Jerzy Popieluszko, whose spirit lives on in the hearts of all people who struggle for human rights.●

EXPORTS OF TOBACCO AND TOBACCO PRODUCTS TO JAPAN

● Mr. McCONNELL. Mr. President, during Japanese Prime Minister Nakasone's visit here in Washington, condemnation of Japanese trade policies has been widespread, universal, and bipartisan. I have, at times, been a Senator who has been very critical of Japanese trade policy, but I think it is important to identify a very bright spot in our trading relationship with Japan.

I am speaking, as I often do on this floor, about tobacco and tobacco products.

Mr. President, America's No. 1 export, as an industry, to Japan in the month of January was tobacco leaf and tobacco products. In fact, the Japanese tobacco monopoly has been America's best customer for United States-produced tobacco leaf, purchasing almost 250 million dollars worth in 1986 alone. The Kentucky tobacco grower is indebted to the Japanese for recognizing the high quality of American leaf and purchasing accordingly.

Until recently, however, the Japanese Government's attitude toward purchasing the finished product was decidedly different. Much to my delight, even that has now changed.

Mr. President, the United States Trade Representative reached an agreement with the Japanese last September that appeared to lay the groundwork for a significant cigarette market opening in Japan. Those of us who have worked on this issue expressed some doubt as to the true meaning of this agreement, as the Japanese have promised to open their cigarette market to United States cigarettes for years with little substantive result. This time, though, I believe a real market opportunity is now available, and the Japanese deserve some credit for carrying through on the agreement both in substance and spirit.

The United States cigarette is now priced competitively with Japanese cigarettes and is available at all cigarette shops which sell tobacco products. Furthermore, the Japanese Diet showed extraordinary political courage last month by suspending the import tariff on American cigarettes. Firm figures on cigarette sales in Japan have not been published for the first quarter, but company executives have told me that trends for cigarette sales in Japan are very encouraging. A complete market opening for United States cigarettes could mean a 20-percent market share, translating into millions of dollars for Kentucky tobacco growers.

There are examples of the trading relationship between Japan and the United States where there is no level playing field. Certainly, Kentucky beef cattle producers would be delighted to have an opportunity to sell their product in the lucrative Japanese market. However, in this one instance, the Japanese Government must be commended for allowing American producers of tobacco and tobacco products to compete in the Japanese markets.

I hope, Mr. President, that the success the tobacco industry has enjoyed in creating a more favorable trading environment in Japan can be a model for other industries. The Japanese consumer market is an attractive target for American business, just as our markets are attractive to Japanese manufacturers. Perhaps this one example of success will lead to an eventual resolution of the difficult trade issues which threaten the important strategic relationship which exists between our two countries.●

JOBS PROGRAM

● Mr. SIMON. Mr. President, Lloyd Pletsch, the managing editor of the DeKalb Daily Chronicle, recently had a column about the jobs program that I have introduced.

I ask that it be inserted in the RECORD.

The article follows:

WORK PLAN MIGHT WORK

(By Lloyd Pletsch)

There's no such thing as a free meal.

In other words, everything costs somebody something.

For example, a welfare reform-type program designed to create 3 million new jobs would cost American taxpayers about $8 billion a year.

The program was introduced last week by U.S. Sen. Paul Simon. He is aware of the cost, but says much of the estimated $8 billion would be offset by savings in the welfare unemployment and compensation costs.

On the surface the concept is simple enough. Simon's Guaranteed Job Opportunity Act would provide anyone who is out of work for five weeks or more with a job. They would have to show they tried to get a job in the private sector and were unsuccessful. With that proof they would be paid to work for 32 hours each week at the minimum wage of $107 a week or $464 a month. That's 10 percent above welfare or unemployment compensation, Simon said.

What would these people be doing? Everything from repairing sidewalks to helping in daycare centers. Jobs would be provided on a project-by-project basis, following guidelines established by the secretary of labor.

The governors in each state would appoint a committee of seven to conduct hearings on appropriate governing districts within the state.

No more than two people in a household would be eligible for a job and no one in a household with more than $17,000 annual income could work under guidelines of the program.

The proposal is being hailed by groups ranging from the Americans for Indian Opportunity to representatives of the Catholic Church.

The bill has appeal in that it will provide for basic employment skills training and other measures to help recipients find long-term jobs in the private sector. It's true that the demand for unskilled labor is going down and the pool of unskilled labor is increasing. The bill adddresses that problem.

Will it work? Maybe. But it is expensive and that will be a major drawback to getting it approved. Administering it would be a real challenge but not impossible.

It's based on the premise that people do want to work. Is that really the case? Maybe for the majority, but there will always be those who cheat the system just as there is with any program.

One Senator who supports the concept said it would be doing something for the major problem facing this country—unemployment—and all the other problems will be taken care of.

That's doubtful, but the Simon proposal is an interesting one. It might be worth a try even though expensive. It's probably no more costly than dealing with unemployment through current means available. Paying people to work rather than simply paying people to do nothing is a concept that the American taxpayer can appreciate.

The plan is no free meal but it might be a nourishing meal at a less expensive price.

SPACE STATION: A REVITALIZATION OF OUR AMERICAN SPIRIT

● Mr. SHELBY. Mr. President, this year marks the silver anniversary of JOHN GLENN's historic orbiting of the globe. Twenty-five years ago, America stood poised on the edge of the "Final Frontier" and then vaulted with the confidence, pride and support of the entire Nation into the "challenge of tomorrow." Today, we are at a similar crossroad. Like the settlers of the early 1800's, we have the unique opportunity to push the frontier back a little farther—into the exciting new realm of a permanently manned space station.

As the world has changed so dramatically over these 25 years, so too, has America's global interaction. We

live in a world where information is bounced into space and back to other parts of the world in milliseconds. We live in a world of economic summits, compact discs, robots, laser surgery, and star wars. We live in a world where for nearly two decades America dominated space flight and technology. Now we discover that the space playing field is filled with competitors from all nations.

The idea of a space station is certainly not new. Through the surrealistic eye of Hollywood the public has for several years been exposed to the idea of human beings living and working together in space. In fact, 25 years ago NASA's Langley Research Center opened the first space station office. Our scientists and astronauts confirm that America is at the point where a manned space station is the logical successor to the Mercury and Gemini programs, the Moon landing and the shuttle.

But rather than being an idea borne out of a Hollywood movie set, space station represents the culmination of a quarter century's work and the integral element in mankind's exploration of the universe.

Picture a new era of innovation and discovery fueled by a laboratory obiting 250 nautical miles above the planet. What can we look forward to? Lifesaving medicines, supercomputers, stronger metals, and crystals among many new advances planned for the station. Structurally we envision platforms to launch voyages to distant planets, to service satellites, assemble spacecraft, and to observe the Earth and the universe. We talk of private industry and Government, the academics and the astronauts, the scientists and the students from Western Europe, Japan, Canada, and the United States linked together by a common dream: a space station.

I feel confident that space station will be an academic, commercial, scientific, and security success—by more importantly—it will be a success for our country, a landmark accomplishment that every citizen can take pride in.

Mr. President, for a moment let us consider the world of 25 years ago, when we as a country saw the globe in it's entirety for the first time through the eyes of JOHN GLENN. From this perspective, we see the incredible beauty and pervasive tranquility. We do not see borders or boundaries, lines of demarcation or the fences that separate mine from yours. What we are privileged to see is the wonder of our planet in its entirety.

I believe space station will be the catalyst that will help us regenerate that elusive quality that characterized our Nation 25 years ago. I know that our strong commitment to this NASA program now will not only produce the most significant event of our century, but will also set the pace and tone with which we greet the 21st century. Mr. President, I believe in space station and I urge my colleagues to stand behind this most vital American program.●

YUGOSLAVIA

● Mr. SIMON. Mr. President, I would like to call attention to an issue that is often overlooked. There is a problem in Yugoslavia that is getting worse and worse, and we can no longer afford to look the other way.

Yugoslavia is a country of minorities, some of whom unfortunately do not get along with each other. An extreme example is the persecution of Albanians in Kosovo. Kosovo is a small region of Serbia along the border of Albania. The region has a majority of ethnic Albanians. The people of Kosovo want to have republic status, however, and the Government of Serbia misconstrues that to mean Kosovo wants to unite with Albania.

The Government of Serbia, saying it wants to stop separatism, suppresses the desires of the Kosovan people through the use of informants and frequent arrests. In the past few years there have been over 25,000 Albanians arrested or harassed in Yugoslavia for political activism. This has grown well out of control, and the United States must make its voice heard.

The United States has given much assistance and encouragement to Yugoslavia because Yugoslavia was the first Communist country to break relations with Stalin's Soviet Union in 1948. This was a fair step at the time, one that made good foreign policy sense. We still ought to encourage an independent Yugoslavia, free from Soviet troops and control. But Belgrade must also hear a clear United States voice condemning human rights abuses. I hope my colleagues will join me in speaking out against the persecution of ethnic Albanians in Yugoslavia's Kosovo province.●

PRESIDENT REAGAN'S COMMENTS ON EDUCATION

● Mr. LEVIN. Mr. President, we are all distressed by the reports of the failure of security in our Embassy in Moscow. But we should not let our frustration lead us to look for convenient scapegoats or simplistic explanations. Unfortunately, the President engaged in some of this recently when he suggested that our Nation's schools may bear substantial responsibility for the alleged misconduct of the marine guards at the Embassy. James Reston of the New York Times responded with a very thoughtful article which put the allocation of blame in its proper perspective. I ask that the article by James Reston appear in the RECORD.

The article follows:

REAGAN ON EDUCATION

WASHINGTON.—President Reagan has a story for every occasion and an excuse for every disaster.

He blames the Congress for the budget deficit, the Japanese for the trade deficit, his aides for the Iran-contra scandals, and now the educators for the latest security outrage at the U.S. Embassy in Moscow.

In California for the Easter recess, he condemned the Russians for spying on our embassy and the marines for letting them in, but then suggested that maybe the problem was not that boys like girls, but that we were no longer teaching "values" in the schools.

His story this time was about the counselor who asked his students what they'd do if they found a pocketbook with a hundred dollars inside and the owner's name on the flap. Most of them said they'd keep the money, but when they asked the counselor what he'd do, he didn't distinguish between right and wrong but ducked the question.

The national teacher's association could sue Mr. Reagan for that one, yet he was getting at a valid point, namely that we cannot explain the scandals of the present time without looking at the decline of decency and moral values in the society as a whole.

No doubt the educational system is part of the problem. More young Americans are spending more years in school than ever before, and more, like the Marine guards in Moscow, are going to high school and beyond at greater expense than in any other country in the world.

But in this last half-century there has been a startling change in American society that requires much more knowledge of the world and places a far greater burden on the schools.

Now, as the President suggested in California, the schools are expected to perform many of the educational functions that used to be performed by the family, the settled community and the church, and they often perform them in peculiar ways.

Modern American education, most of the time and most of the places, no longer emphasizes, for examples, the cultural tradition on which the Republic was founded and the Constitution written 200 years ago.

Instead, the usual school curriculum is filled not with a study of the student's responsibilities, but of his rights. It is concerned largely with elective, specialized, accidental and incidential studies, in accordance with the student's personal ambition rather than his public responsibilities. Accordingly, it is probably not too much to say that the present generation is now coming out of school with no common body of knowledge, no common moral and intellectual discipline and no common truth.

But it would be too much to say that the schools are wholly to blame for this predicament. Look at the predicament of the American family, which always was and still is the main repository of our values; look at the divorce rates, and the rate of illegitimate births, and the dropout rates, and the models put before our children by Madison Avenue and Wall Street, and Pennsylvania Avenue, and on the television screens of the nation.

Look also at the record of the President's own Administration. For he also is supposed to be a teacher, in fact the principal teacher in a secular society, and he has been teach-

ing that private concerns are more important than public concerns, indeed that government is not the answer to our common problems but is itself the problem.

The President is quite right in suggesting that the society itself is also to blame for the derelictions of duty we have seen recently in Moscow, and in the basement of the White House, but the state of mind of the people is often a reflection of the quality of their responsible leaders.

For if you teach the people that they don't have to pay for what they want, that they can spend and borrow, that success is for those who equivocate and evade, that private wants are the things that matter, you shouldn't be surprised if marines chase girls and neglect their duties.

Meanwhile, I don't believe there's a teacher in the country who wouldn't tell his students to turn in the hundred bucks to the person whose name was on the pocketbook flap.●

AMENDMENT TO RULES OF PROCEDURE OF SENATE SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION

● Mr. INOUYE. Mr. President, at a closed meeting of the Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition which took place on April 30, 1987, the committee adopted an amendment to its rules of procedure.

The purpose of the amendment is to allow the committee to conduct hearings jointly with the House Select Committee to Investigate Covert Arms Transactions with Iran and to provide for the rules which govern those hearings.

The rule in its entirety reads as follows:

10.1 The Committee may conduct hearings jointly with the House Select Committee to Investigate Covert Arms Transactions with Iran.

10.2 Rules 3.2, 3.5, 5, 6.1-6.10, and 6.12 of the House Select Committee, to the extent that they are inconsistent with the rules of this Committee, shall govern hearings conducted jointly by the two Committees, when such hearings are held in facilities provided by the House.

10.3 Notwithstanding Rule 10.2, all such joint hearings shall for all purposes be considered hearings of this Senate Committee.●

CONGRATULATIONS TO WATERBURY BAR ASSOCIATION FOR OBSERVANCE OF LAW DAY 1987

● Mr. WEICKER. Mr. President, I want to congratulate the Waterbury Bar Association on its observance of Law Day in the year of our Constitution's 200th anniversary. Appropriately, Law Day's theme, "we the people," will focus on law and the Constitution in our daily lives.

The Hearst Corp. recently conducted a survey to test the American public's knowledge of our Constitution. The results were, to say the least, startling. Twenty-five percent of the individuals surveyed throught the Constitution was drafted to declare the independence of the United States from England; nearly 60 percent did not know the Bill of Rights is the first 10 amendments to the Constitution; and 49 percent believed the President has the right to suspend the Constitution in times of war or national emergency.

Fortunately, the Constitution protects all Americans whether they are familiar with the document or not. It touches our lives daily as we gather to worship, as we assemble to debate, as we share our opinions. In this bicentennial year of the Constitution, lawyers have a special opportunity to help instill in their fellow Americans a deep appreciation and understanding of our unique constitutional system. As the origins of the Constitution and the great freedoms it espouses reach the forefront of the Nation's consciousness, more Americans will realize it is their right and their privilege to participate in public policymaking.

I know the Waterbury Bar Association and all Law Day participants will rise to the challenge of educating Americans about their rich heritage. Once again, I congratulate them for the role they play in citizen involvement.●

THE WALLOP-BREAUX FUND A SUCCESSFUL RECREATIONAL PARTNERSHIP

● Mr. WALLOP. Mr. President, I want to thank my colleagues from both sides of the aisle for the strong showing of support they recently provided to America's millions of anglers and boaters. Well in excess of 30 Members of this body recently joined to protest a proposed diversion of $25 million in Federal recreation user fees. I feel confident that this strong reaction will safeguard the aquatic resources trust fund in fiscal year 1988.

Beginning in 1950, outdoor lovers began to pay special Federal taxes on fishing tackle and other equipment so that the public management programs for fisheries could be adequately funded. Since that time, tens of millions of Americans have paid hundreds of millions of dollars in taxes used to support research, fisheries habitat improvements, creation of lakes, and construction of fish hatcheries.

In my mind, this is one of the great examples of partnerships in the outdoors. Individuals pay the taxes—each paying a relatively modest amount—to a true Federal trust fund which makes matching grant money available to State fish and wildlife agencies. Local sportsmen's clubs often get involved, too, at the grass roots level, further extending the impact of this program.

In 1984, we built upon the tradition of success established under this program, then popularly known as the Dingell-Johnson fund. We merged into this fund a similar program designed to aid the Nation's boaters. I was pleased, as I know my colleague from Louisiana, Mr. BREAUX, was, to have the resulting program pass the Congress and be signed into law in the summer of 1984 and receive acclaim by key fisheries and boating organizations as one of the most significant pieces of legislation ever in this field. I was also delighted when the program was unofficially christened the Wallop-Breaux fund.

Since that time, my hopes and the hopes many public and private sector outdoor interests whose work led to this program have been fulfilled. My State's share of the new fund may not be immense by Washington standards, but the results of these funds are having a direct and dramatic positive impact on outdoor opportunities in Wyoming. This year, Wyoming will receive some $2 million. The money will be matched by State fishing license and boat registration revenues and will be used to:

Build a parking area, toilet facilities and boat ramp at the Woodruff Narrows Reservoir which will provide 20,000 fishermen days of use ($40,000);

Acquire access to three lakes (Meeboer, Gelatt, and East Allen) and develop proper facilities (parking, toilets, roads and boat ramps) to serve 41,000 fishermen days each year ($157,000);

Expand fisheries management, particularly through increased data collection ($250,000); and

Acquire the site for a new hatchery ($200,000).

I am pleased to report that the Wallop-Breaux fund is having a similar, measurable impact on fishing and boating opportunities across our great Nation. The use of these funds has been collected and published in a booklet printed by the U.S. Fish and Wildlife Service entitled State Fishing and Boating Statistics: Projected Plans for Wallop/Breaux funds. I know each of you would conclude, after reviewing the use of these funds and understanding that only 2 or 3 percent of the collected dollars are spent administering, that this ranks high on the list of effective and efficient Federal programs.

In 1985 and again this year, your outspoken support for this program, and your belief that we should remain true to the commitment made to the Nation's anglers and boaters when they volunteered for the special taxes, have helped millions of Americans understand that Federal assistance is not an oxymoron. I know the administration has come to respect the power of the Nation's anglers and boaters. I hope that future budget proposals will avoid any attempts to raid Wallop-Breaux not because of this power, though, but because of the need to

protect the integrity of a successful, user-fee base program.●

THE DEATH OF EWAN CLAGUE

● Mr. MOYNIHAN. Mr. President, every day in America, business and Government leaders make policy decisions that affect the entire Nation. The success of their choices is critically dependent upon the accuracy and availability of the information they turn to for guidance. Such measures as the Consumer Price Index—a key measure of inflation—employment trends, productivity statistics, and other such indices record and describe the country's economic performance.

The Bureau of Labor Statistics is one of the principal data-gathering agencies of the Federal Government. And the credit for its responsible collection and dissemination of this basic data rests largely with Ewan Clague, the Commissioner of Labor Statistics for the Department of Labor from 1946 to 1965.

Far too often a man's work goes unacknowledged until his death. And so it is only with the loss of Ewan Clague that we are reminded once again of his valuable contributions to the Bureau of Labor Statistics, an agency with a record of high standards, consistently maintained.

But as we all know an agency is only as good as the people who staff it. Ewan's tenure coincided, even predicated, a crucial time in the Bureau's development. He guided the BLS through a turbulent postwar period and saw the use of labor statistics grow from descriptive and analytical purposes to policy tools affecting the lives of millions of Americans.

Under Mr. Clague's leadership, the Bureau maintained public confidence, especially among the captains of labor, industry, and Government. Ever adaptable to the changing needs of our society, Mr. Clague developed new programs while maintaining impartiality and objectivity.

I can attest to the Bureau's valuable contributions to the war on poverty launched by President Johnson. As Assistant Secretary of Labor for Policy Planning and Research, I know firsthand the merit of the Bureau's work, especially the Office of Economic Research established by Mr. Clague. This Office examines the critical social issues of poverty and the condition of minorities and also provides essential data on the characteristics of the unemployed and the nature and extent of poverty.

I have often asserted that you cannot understand a problem until you measure it. Ewan Clague's lifelong commitment to the competent and honest use of labor statistics helped to provide national awareness and consequently action on countless issues.

Mr. President, I ask that an obituary from the New York Times of April 15 be printed in the RECORD.

The obituary follows:

[From the New York Times, Apr. 15, 1987]

EWAN CLAGUE, 90; U.S. LABOR OFFICIAL

Ewan Clague, Commissioner of Labor Statistics for the Department of Labor from 1946 to 1965, died of Alzheimer's disease Sunday in a nursing home in Bethesda, Md. He was 90 years old and lived in Washington.

For almost a decade after he retired in 1965, Mr. Clague taught labor statistics. He did so at the Universities of California at Los Angeles and the Universities of Pennsylvania, Michigan State and New Hampshire and at Drexel University in Philadelphia.

Mr. Clague, a student of trends, was chosen as Commissioner when he was head of the Social Security Board's Bureau of Employment Security. He had been in the Government for 10 years.

His competence made him acceptable to the economic professionals in business and labor and to economists generally.

Once, when the announcement of the Consumer Price Index was delayed beyond its customary date in the month, Mr. Clague explained that the increase was so unusually large that he had sent the results back for a recheck. No error was found.

In 1959, in the 116-day steel strike, Mr. Clague's bureau produced a booklet of basic statistics about the industry for the Secretary of Labor. One of the side effects of this was a complimentary newspaper article about Mr. Clague as author of the booklet. He let it be known that this was a case of misplaced credit and that he was unhappy about it.

"I am no high-powered statistician," he declared, "but I have some of the best in the world working for me."

He was put in office under a Democratic Administration but when James P. Mitchell took office as Secretary of Labor in a Republican Administration in 1953, he fought hard to keep Mr. Clague in his post. He was re-appointed by Presidents Eisenhower and Kennedy.

Mr. Clague was a native of Washington State. His parents had emigrated from the Isle of Man, Britain.

Mr. Clague graduated from the University of Washington and earned a doctorate from the University of Wisconsin.

He is survived by his wife, Dr. Dorothy V. Whipple, a pediatrician; two sons, Christopher Karrin Clague of College Park, Md., and Lewellyn Whipple Clague of Hastings-on-Hudson, N.Y.; a daughter, Anne Farber of Manhattan, and seven grandchildren.

A memorial service will be held at 1 P.M. April 26 at the Cosmos Club in Washington.●

TAKE PRIDE IN NEW YORK CAMPAIGN

● Mr. D'AMATO. Mr. President, it is not often that the citizens of one of the most exciting places in the world pause to pay tribute to their own city. New Yorkers, by tradition, are too busy creating, designing, innovating, crafting, building, and implementing to stop and admire their unique hometown. While I am confident that every New Yorker feels a special, personal affection for the city in which they live, it is important that this admiration and respect be encouraged publicly.

This is why I rise to acknowledge the "Take Pride in New York" campaign underway in "the Big Apple." The campaign has begun, appropriately enough, by reaching out to our young people throughout the city school system. Mayor Edward Koch, the city board of education, Eastman Kodak, and the New York Post have all taken a leadership role in sponsoring a contest that asks the children to create photo essays and write poetry that speaks to the pride they feel about the city in which they are growing up.

We should applaud and encourage the sponsors of this effort, as they are helping to inculcate our next generation of leaders with the spirit that is New York.

For generations New York has given countless people an opportunity to realize their dreams. Today the "Take Pride in New York" campaign is allowing New Yorkers to return the favor and add a special shine to "the Big Apple."●

FAIRNESS IN U.S. ASYLUM

● Mr. KENNEDY. Mr. President, a few weeks ago I commented on the issue of our political asylum process following the Supreme Court's recent landmark decision in INS versus Cardoza-Fonseca. That decision of the Court upheld the intent of Congress in its passage of the Refugee Act of 1980 by ruling that the administration has been overly rigid in its applications of our political asylum process.

Mr. President, I would like to bring to the attention of my colleagues a thoughtful contribution to the public debate on the asylum issue by an imminent expert on immigration and refugee affairs. Doris Meissner has served with distinction on this issue, both inside and outside government, and is well known to many of us here in the Senate. I believe her recommendations add some very practical suggestions following the Supreme Court's decision by outlining steps which would increase the responsiveness of our asylum system, without the same time overburdening the process.

I think her recommendations deserve the Senate's careful attention, and I ask that her recent article on this subject in the Los Angeles Times be printed at this point in the RECORD.

[From the Los Angeles Times, Apr. 29, 1987]

FOR FAIRNESS, KEEP ASYLUM DISTINCT FROM IMMIGRATION

(By Doris M. Meissner)

The Supreme Court has soundly repudiated the government's requirement that applicants for political asylum show that they are "more likely than not" to be persecuted

if returned to their country. Instead, the court tells us, Congress intended the Refugee Act of 1980 to be "more generous" than that. However, experience teaches us that generosity is quickly sacrificed in the face of large-scale first-asylum influxes such as those that the United States has seen since 1980.

The Refugee Act gave us a method and criteria to decide on admittance of people directly from their home country. Scant attention was devoted to the situation of people who got here on their own and then sought asylum as refugees. The problem of "first asylum" became overwhelmingly evident with the Mariel boatlift, Premier Fidel Castro's export of 125,000 Cubans to Florida one month after the act passed.

Other Western nations have experienced similar pressures, unprecedented in size and suddeness, and have concluded that their asylum provision were being abused to circumvent traditional refugee selection processes. Most have tightened their systems significantly to discourage access to the judicial system through claims and appeals that can take years. Our government did the same just as the full weight of the Central American migration of the 1980s, particularly that from El Salvador, began to be felt.

Although the recent Supreme Court decision arose from a Nicaraguan's case, the facts were typical of thousands of Salvadoran claims, by far the largest caseload from Central America. Migration from El Salvador had traditionally been economic in origin. The surge began during the late 1970s when severe political repression became widespread.

No one can know what the percentage of true refugees among Salvadoran claimants might have been, because the Administration's approach and procedures foreclosed an honest review. Probing the line separating economically and politically generated flight was a new complexity that officials brushed aside. Overwhelmed by applications, they believed that Salvadorans were filing for political asylum to stop the legitimate enforcement of departures so that they could remain here to work. Thus the Salvadoran claims were judged particularly harshly: The approval rate was 2%.

This record stood in stark contrast to widespread reporting of death-squad activity and personal accounts of atrocities in El Salvador. Still, to this day the Immigration and Naturalization Service and the Department of State steadfastly insist that Salvadorans have essentially been economic migrants.

Characteristically, State acts as a refugee advocate within the government. In this instance, however, generous refugee admissions hardly would serve the larger foreign-policy agenda of support for the governments generating the major flows.

Had a humanitarian refugee policy been an important component of U.S. policy toward Central America, and had the INS made a successful effort to evaluate claims quickly and fairly, a best guess is that 15% to 20% of Salvadoran claimants who arrived before 1982-83 would have been granted refugee status. The debate would then have shifted to the truly difficult issue. How does a nation fashion an asylum policy and system that are at once fair and resistant to abuse?

The starting point must be fairness. A corps of specialized asylum officers is required to decide applications based on current information about country conditions. These officers should be specially trained and insulated from competing law-enforcement tasks. Information to guide their decisions must be drawn from many sources, not only from the State Department, to ensure objectively. The legal standard to assess persecution must be consistent across nationality groups, and decisions must be based predominantly on in-depth interviews with applicants.

Next, the major objective must be timeliness. Applications should be decided quickly, within three months at most, to deter the filling of claims to gain authorization to work in the United States. If a fraction of the resources that have been devoted to detention centers for asylum-seekers had been directed instead at the asylum adjudicatory process, crippling backlogs that invite frivolous applications would not have appeared. Moreover, interim regulations, hastily prepared after the act passed have never been replaced with definitive guidance for field personnel.

Finally, foreign-policy measures that inflame migration must be reexamined. The rapid increase in the size of human population coupled with growing income disparities among nations, especially in the Americas, and growing political instability worldwide have greatly increased the potential for first-asylum influxes. There will surely be more.

The Administration has severely mishandled the asylum mandate in the name of immigration control. In setting the record straight, the Supreme Court has ruled that time-honored humanitarian principles embodied in U.S. law cannot be set aside to choke off unwanted asylum requests. But the generosity that it correctly demands will be in short supply again unless we translate our traditions and law into a system that speaks to the reality around us.●

OREGON STATE SENATE MEMORIALS

● Mr. HATFIELD. Mr. President, Oregon's 64th Legislative Assembly has adopted four Senate joint memorials to the U.S. Congress which I submit for the RECORD:

SENATE JOINT MEMORIAL 1

To the Senate and House of Representatives of the United States of America, in Congress asembled:

We, your memorialists, the Sixty-fourth Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas N-Reactor at Hanford, Washington, has been operating since 1963; and

Whereas N-Reactor appears to be similar in some respects to the nuclear reactor at Chernobyl, which was the site of a catastrophic nuclear accident in April 1986; and

Whereas the Oregon Department of Energy, in a report prepared for Governor Vic Atiyeh on N-Reactor safety came to the following conclusions about N-Reactor:

(1) Because persons responsible for safety at N-Reactor are also responsible for plutonium production, the United States Department of Energy should develop a regulatory program totally independent of the production program;

(2) In the event of an accident at N-Reactor radioactive liquids could be pumped with emergency cooling water into an earthen trench located close to the Columbia River where the possibility then exists that the radioactive liquid could, over time, enter the river.

(3) Much of the N-Reactor equipment is near or past its design life and needs frequent maintenance, repair and replacement;

(4) In order to enhance public health and safety, safety equipment should meet all current standards for the commercial nuclear industry when existing safety equipment is replaced or added;

(5) Unlike the commercial nuclear industry, the operators of N-Reactor are not required to prepare for unlikely accidents involving severe fuel damage;

(6) N-Reactor operators have not been trained and procedures have not been published on how to handle severe fuel damage, and improper actions could result in large releases of radioactivity into the environment; and

(7) Oregon has not been included in development and testing of the emergency response plan for N-Reactor; and

Whereas six independent consultants for the United States Department of Energy agreed with these safety concerns and raised others which questioned whether the N-Reactor can continue to operate safely; and

Whereas necessary safety improvements will be very expensive and take a long time to implement; and

Whereas in any case the N-Reactor can only operate a few more years due to growth of the graphite core; and

Whereas in order to protect the safety and health of the people of Oregon the concerns expressed in the Oregon Department of Energy report must be addressed; now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon:

(1) The Oregon Legislative Assembly believes these concerns pose risks of continued operation that are a significant threat to public health and safety and the environment.

(2) The Congress of the United States is respectfully memorialized to order the United States Department of Energy to immediately and permanently shut down the N-Reactor and begin decommissioning.

(3) A copy of this memorial shall be sent to each member of the Oregon Congressional Delegation.

SENATE JOINT MEMORIAL 2

To the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Sixty-fourth Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas the purpose of the Nuclear Waste Policy Act of 1982 is "to establish a schedule for the siting, construction and operation or repositors that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste . . . as may be disposed of in a repository"; and

Whereas this process set up for the siting of our nation's first high-level radioactive waste repository is out of control; and

Whereas in the overall statistical evaluation indorsed by the National Academy of Sciences, the Hanford, Washington site for the proposed repository was ranked fifth among five potential sites; and

Whereas the Hanford site was ranked fifth in evaluation of both its post closure and preclosure performance; and

Whereas if only health and safety factors are considered, the Hanford site ranks far behind four other potential sites; and

Whereas despite these rankings, the Hanford site was selected as one of the top three sites in the selection of a nuclear repository; now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is respectfully memorialized to appropriate no further federal dollars on site characterization on the fifth ranked Hanford site.

(2) A copy of this memorial shall be sent to each member of the Oregon Congressional Delegation.

SENATE JOINT MEMORIAL 3

To the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Sixty-fourth Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas Section 112 of the Nuclear Waste Policy Act of 1982 requires the Secretary of Energy to develop guidelines for the recommendation of sites for repositories of high-level radioactive waste; and

Whereas Section 112 of the Nuclear Waste Policy Act of 1982 requires the Secretary of Energy to nominate five sites suitable for site characterization for selection of a second repository site; and

Whereas the Nuclear Waste Policy Act of 1982 requires the Secretary of Energy to use guidelines established under Section 112 of the Nuclear Waste Policy Act of 1982 in considering candidate sites for recommendation for site characterization studies and selection of the first and second repository sites; and

Whereas the Secretary of Energy announced the nomination of five sites suitable for site characterization for selection of the first repository site before completion of the guidelines for such selection; and

Whereas on May 28, 1986, the Secretary of Energy announced postponement indefinitely of all site-specific work related to selection of a second repository; now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is respectfully memorialized to require the Secretary of Energy to comply with the terms and procedures of the Nuclear Waste Policy Act of 1982.

(2) That if the United States Department of Energy fails to comply with the Nuclear Waste Policy Act of 1982, responsibility for the selection of high-level radioactive waste repositories should be placed with another appropriate agency.

(3) A copy of this memorial shall be sent to each member of the Oregon Congressional Delegation.

SENATE JOINT MEMORIAL 5

To the Senate and House of Representatives of the United States of America, in Congress assembled:

We, your memorialists, the Sixty-fourth Legislative Assembly of the State of Oregon, in legislative session assembled, respectfully represent as follows:

Whereas the 99th Congress of the United States failed to enact a federal aid highway act for this current federal fiscal year; and

Whereas the 100th Congress of the United States is currently considering enactment of a federal aid highway act for this current federal fiscal year; and

Whereas the differences in the proposals being considered in the Senate and House of Representatives relating to such issues as demonstration projects, speed limits and highway beautification are so great that there is a real risk of another prolonged delay as a conference committee attempts to resolve these differences; and

Whereas these differences could be addressed in separate legislation; and

Whereas these delays effectively impound road user taxes already paid to the Federal Government by the citizens of the State of Oregon; and

Whereas the delay of the distribution of federal highway funds to the State of Oregon has already resulted in the postponement of vital road, street and highway projects needed for the safety of Oregon's motoring public and for the economic recovery of the State of Oregon; and

Whereas these delays cause significant employment problems for large numbers of Oregonians: now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon:

(1) The Congress of the United States is memorialized to:

(a) Act expeditiously in the resolution of the differences between the two Houses of Congress; and

(b) Enact a federal aid highway act at the earliest possible time.

(2) A copy of this memorial shall be sent to each member of the Oregon Congressional Delegation.●

SOLIDARITY SUNDAY

● Mr. SIMON. Mr. President, this Sunday, Solidarity Sunday, is an opportunity for the citizens of the United States to express their commitment to the struggle to free Soviet Jews. The Soviets have made minor concessions regarding human rights, including a slight increase in emigration levels. However, the overall situation facing Jews in the Soviet Union remains unchanged.

The Coalition to free Soviet Jews is sponsoring a march and rally in New York this weekend on behalf of the hundreds of thousands of Jews remaining in the Soviet Union. I commend my colleagues to the following statement made by the coalition in the New York Times on Thursday, April 30, 1987.

The news coming out of the Soviet Union these days is better than at any time in recent memory. And that scares us.

Because while Jews are being allowed to emigrate to Israel in greater numbers, while Jewish prisoners of conscience and human rights activists are gradually being released from prison, while families are being reunited, a new threat to Soviet Jews looms large.

It's us.

We are in grave danger of growing complacent over these positive developments—and letting our joy over the emigration of 470 Jews this March make us forget the hundreds of thousands still trying to leave.

We have much to be proud of. Were it not for our refusal to let the issue die, it's doubtful that Soviet Jews would now be enjoying the small gains they've made.

But instead of resting on our laurels, we've got to build on our momentum. Our demands are being heard. They must continue to be heard until every Jew who wants to leave the Soviet Union has been allowed to, and until those who are left behind are allowed to live as Jews.

By marching on Solidarity Sunday, May 3rd at noon, we can show the Soviet Union that the concessions they've made can't buy our silence.

They'll still have to earn it.

These words parallel my own fear that recent releases will cause us to dismiss the pleas of individuals still suffering in the Soviet Union—individuals such as Naum Meiman who have been waiting for over 10 years for permission to emigrate. Naum, who is in his seventies, has been denied permission based on the presumption that he knows Soviet secrets—secrets that are over 25 years old and have been disclosed in Soviet journals. And, OVIR recently informed Naum that, due to the knowledge of these secrets, he will never be issued an exit visa.

I cannot begin to imagine the devastation Naum must feel. I do know, however, that the United States must closely examine changes in Soviet policy, and assess what real improvement has occurred. For Naum Meiman, there has been no improvement.

The United States must continue to apply pressure on the Soviet Union to release refuseniks. No matter how high emigration levels reach, we cannot ignore the cries of the individuals who remain there.

I implore the Soviet Union to grant Naum Meiman, and all other refuseniks, permission to emigrate to the West.●

OLDER AMERICANS MONTH BEGINS

● Mr. SIMON. Mr. President, I want to call the attention of my colleagues to the first day of Older Americans' Month. May has been designated as the month which celebrates the contributions, the achievements, and the spirit of the older citizens of our Nation.

I was pleased to cosponsor the legislation which recognizes Older Americans' Month. This designation focuses attention on the accomplishments of older people, the fastest growing segment of our population.

The image of the older person who sits in a rocking chair knitting or doing nothing is fading. The older person has a great deal to offer society; maturity is a tremendous asset. Recently, we have seen corporations appealing to the older person as a potential worker. The business community has recognized the assets of experience and reliability which the older worker possesses.

Older people have made enormous contributions to our society.

Georgia O'Keefe's stunning paintings, many done while she was in her eighties and nineties, exemplify the creative powers which many older people possess.

Dr. Albert Sabin, who discovered the polio vaccine, continues to do medical research. He is over 80.

Eleanor Roosevelt continued her political advocacy until the day she died at age 78.

Margaret Mead, whose findings revolutionized the world of anthropology, studied human nature until the day she died at age 78.

George Burns, whose energy is a source of amazement, has taught the public that not all 91-year-olds are cranky.

Eubie Blake, an institution in the world of jazz, composed and played the piano with vigor throughout his 100 years of life.

The age of these legends is immaterial.

I commend the activities and celebrations of Older Americans' Month and hope that this year brings even greater improvement in attitudes toward older people.●

ORDERS FOR TUESDAY, MAY 5, 1987

RECESS UNTIL TUESDAY AT 3 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 3 o'clock p.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS—RESUME SENATE CONCURRENT RESOLUTION 49

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized on Tuesday next, there be a period for morning business, not to exceed 15 minutes and that Senators may be permitted to speak therein for not to exceed 5 minutes each, and at the conclusion of that period for morning business the Senate resume consideration of the budget resolution, Senate Concurrent Resolution 49.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMISSION FOR COMMITTEES TO FILE REPORTS AND SENATORS TO SUBMIT STATEMENTS FOR THE RECORD, INTRODUCE BILLS AND RESOLUTIONS, PETITIONS AND MEMORIALS

Mr. BYRD. Mr. President, I ask unanimous consent that committees may have until 5 o'clock p.m. today to submit committee reports; that Senators may have until 5 o'clock p.m. today to submit statements for the RECORD, introduce bills and resolutions, petitions and memorials, and that committees may have on Monday next, between the hours of 10 a.m. and 3 p.m., permission to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME REMAINING ON SENATE CONCURRENT RESOLUTION 49

Mr. BYRD. Mr. President, I cleared this request with the Republican leader before he left.

Mr. President, I ask unanimous consent that when the Senate resumes consideration of Senate Concurrent Resolution 49 on Tuesday next, there remain 16 hours, 8 hours to a side.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene on Tuesday next. I have indicated earlier there will be no rollcall votes on Monday. On this particular Monday, I felt it would be probably better for the Senate not to come in. I have no other business on the calendar that I can take up. This will give committees an opportunity to meet on Monday and without interruption by rollcalls or quorum calls. It will give Senators the opportunity to continue with their discussions on the budget resolution and amendments thereto.

The party conferences will meet on Tuesday, as is regularly their custom, at noon until 2 o'clock, and the convening hour of 3 o'clock will give us an opportunity, if our conferences so need, to run over a bit without concern about the Senate's being in session. The order has been entered accordingly.

Rollcall votes will occur at any time beginning on next Tuesday afternoon continuing through Wednesday, Thursday, and Friday. I would say the Senate should complete action on the Senate budget resolution next Wednesday or Thursday at the latest, and there are a number of amendments that are to be voted on. I urge Senators to be in attendance on those days beginning as early as 10 o'clock in the morning and staying available as long as is necessary daily Tuesday, Wednesday, Thursday, and Friday.

Following the action on the budget resolution, I hope to be in a position to proceed to take up the supplemental appropriations bill which was reported from the Appropriations Committee today.

RECESS UNTIL TUESDAY, MAY 5, 1987 AT 3 P.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order previously entered the Senate stand in recess until 3 p.m. on Tuesday next.

The motion was agreed to, and at 3:56 p.m., the Senate recessed until Tuesday, May 5, 1987, at 3 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate May 1, 1987:

DEPARTMENT OF STATE

Arnold Lewis Raphel, of New Jersey, a career member of the senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.